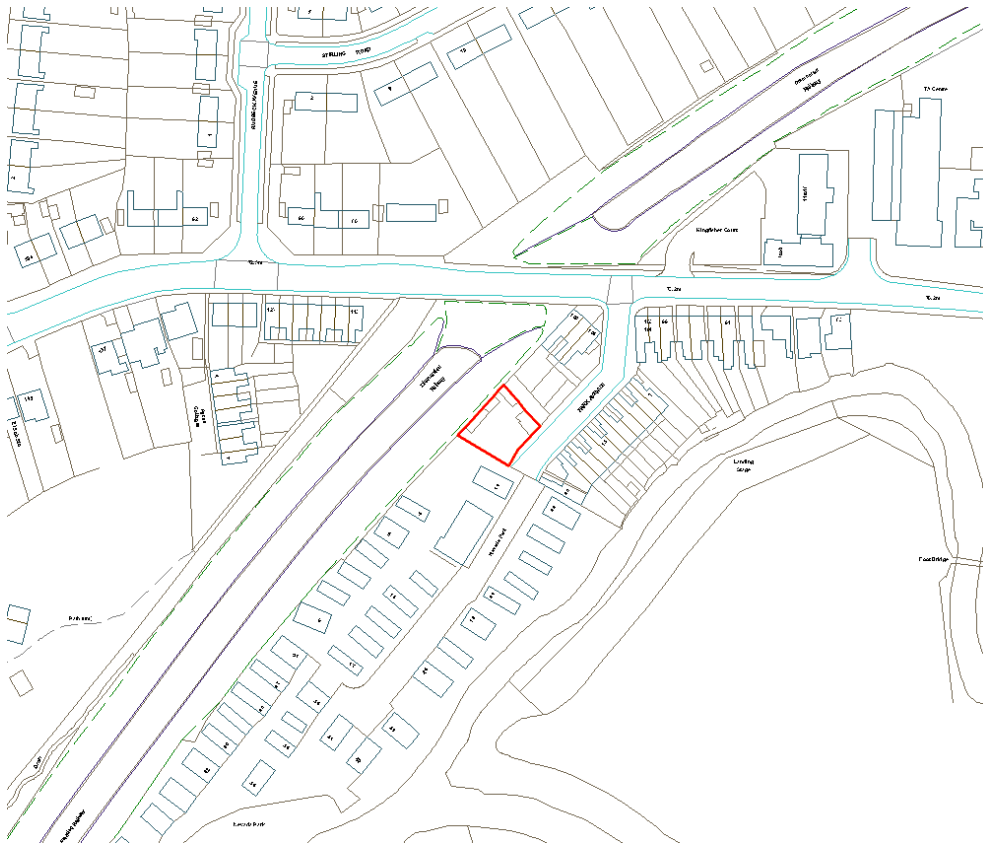


Reference: 10/00668/FUL
Date Submitted: 01.09.2010
Applicant: Mr D Vinden
Location: Rose Caravan, 2 Park Avenue, Melton Mowbray, LE13 0JB
Proposal: Application for a pair of semi detached houses.



Introduction:-

The proposal seeks planning permission for the erection of a pair of semi-detached houses

The property previously contained a residential caravan which has subsequently been removed and the site is semi-derelict. To the south is a large residential caravan site and terrace housing to the north-east and south-east, all served from Park Avenue, an unmade road running south from Asfordby Road. There is a 'building site' to the north, where permission was recently renewed for a single dwelling, and there is a current application pending for 2 flats. The land is situated between the disused railway line and the River Wreake and falls within the flood-zone 3a and 2. The proposal is for the erection of a pair of semi-detached houses, situated close to the road, with 3 bedrooms.

It is considered that the main issues relating to the proposal are:

- **Whether it is appropriate to permit housing on this site as it falls within flood-zone 3a**
- **Whether the applicant has provided sufficient information to assess whether there are sites available at a lower flood-risk (the sequential test)**

The application is presented to the Committee because of the complex issues involved in reviewing the sequential test.

Relevant History:-

05/00755/OUT – Outline for 2 semi detached dwelling – Approved 24.10.2005

07/00891/CL – Certificate of lawfulness for residential home – Refused 23.10.2007

08/00095/CL– Certificate of lawfulness for residential home – Approved 26.03.2008

Planning Policies:-

PPS1 - Delivering Sustainable Development - planning authorities should promote more efficient use of land through higher density development and suitably located previously developed land and buildings.

PPS 3: Housing - amplifies the advice set out in PPS1, and particularly says that housing should be developed in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure. The priority for development in such locations should be previously developed land, where appropriate. The amended statement has removed residential garden area from the brownfield classification to ensure that the character of the areas are not unduly impacted upon. PPS3 also sets out clear advice on determining planning applications, stating that we should have regard to the suitability of a site for housing (including its environmental sustainability) and that we should ensure that proposals are in line with housing objectives and do not undermine wider policy objectives. PPS3 specifically states that “Developers should bring forward proposals for market housing which reflect demand and the profile of households requiring market housing, in order to sustain mixed Communities” (Para 23). In relation to market housing PPS3 states that “One of the Government’s key objectives is to provide a variety of high quality market housing. This includes addressing any shortfalls in the supply of market housing and encouraging the managed replacement of housing, where appropriate. Local Planning Authorities should plan for the full range of market housing. In particular, they should take account of the need to deliver low-cost market housing as part of the housing mix” (Para 25 & 26)

Planning Policy Statement 25: Development and Flood Risk seeks to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas at highest risk. In determining planning applications it states that the Local Planning Authority should have regard to the policies in the PPS; ensure, where appropriate, that applications are supported by site-specific flood risk assessments; apply the sequential approach to sites to minimise risk by directing most vulnerable development to areas of lowest flood risk; and, ensure that all new development in flood risk areas is appropriately flood resilient and resistant.

East Midlands Regional Plan

Policies 1 and 3 seeks to locate new development in sustainable locations that reduce the reliance on the private car.

Melton Local Plan (saved policies):

Policies OS1 and BE1:-

- the form, character and appearance of the settlement are 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 cause undue loss of residential privacy, outlook and amenities as enjoyed by occupants of existing dwellings in the vicinity; and,
- satisfactory access and parking provision can be made available.

Policy H6 :- residential development within village envelopes will be confined to small groups of dwellings, single plots or the change of use of existing buildings.

Melton LDF Core Strategy: seeks to focus development in Melton Mowbray with a small balance (20%) in the surrounding Borough, with provision/contribution of 40% affordable housing from all developments, and expectations to produce mixed, integrated housing developments and meet local needs by addressing identified imbalances in housing stock in all locations. The strategy identifies villages by virtue of a hierarchy reflecting their sustainability and, therefore, suitability for development. Melton is the largest/most sustainable settlement within the District

Consultations:-

Consultation reply	Assessment of Head of Regulatory Services
<p>Environment Agency – Object to this application in the absence of any evidence to demonstrate that the flood risk Sequential Test has been applied by the Local Planning Authority. It is recommended that until then the application should not be determined for the following reasons:</p> <p>The application site lies within Flood Zone 3a defined by Planning Policy Statement 25 as having a high probability of flooding. Paragraph D5 of PPS25 requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a ‘Sequential Test’. In this instance no evidence has been provided to indicate that this test has been carried out.</p> <p>Should the Local Authority determine that the above site is sequentially preferable Planning Policy Statement 25 (PPS25) requires the Exception Test to be applied in the circumstances shown in tables D.1 and D.3. Paragraph D9 of PPS25 makes clear that all three elements of the Test must be passed for development to be permitted. Part (c) of the Test requires the applicant to demonstrate that the development will be safe, without increasing flood risk elsewhere, and, where possible will reduce flood risk overall. Paragraph D13 requires that compliance with each part of the Exception Test is openly demonstrated</p> <p>The Environment Agency ask to be reconsulted with the results of the Sequential Test. Their</p>	<p>The main issue in relation to the proposed development is that the site falls within flood-zones 3 and 2, and therefore under PPS 25 guidance, a sequential and exception test must be passed before permission can be granted.</p> <p>Whilst a flood-risk assessment has been submitted to demonstrate how the effects of flooding can be mitigated, the first assessment must be the sequential/exception tests to demonstrate that it would be appropriate to develop the site.</p> <p>The applicant has submitted information explaining which other sites they have considered, in order to demonstrate that there are no lower-risk sites available. These are addressed below.</p> <p>PPS 25 is clear that the starting point must be that sites within flood-risk zones should only be released if there are no other sites available within a lower floor-risk zone, and it is for the applicant to supply the Local planning Authority with sufficient information for them to assess the availability of such sites (the sequential test). It proceeds to explain that matters within the exception test (the safety of the development, balancing risk against benefits, impact on flooding elsewhere and use of brownfield land) only become relevant if the sequential test is passed.</p> <p>To be considered developable, sites should be in a</p>

objection will remain until your Authority has carried out the Sequential Test to demonstrate that there are no reasonably available alternative sites in areas with a lower probability of flooding that would be appropriate for the type of development proposed.

suitable location for housing development and there should be a reasonable prospect that the site is available for, and could be developed at the point envisaged.

To be considered deliverable, sites should:

- Be Available –is available now.
- Be Suitable –offers a suitable location for development now and would contribute to the creation of sustainable, mixed communities.
- Be Achievable – there should be no undue restrictions on the development of the site.

The applicant has provided a summary of sites which they have considered, and the reasons they consider they are unsuitable or unavailable for the development proposed.

Of the sites indicated by the applicant, several are very large ‘allocated’ sites (often several hectares of land) that will have undue constraints relating to infra-structure provision and affordable dwellings, and developing a small area of such sites is not feasible and **it is therefore agreed that they are unsuitable for the proposed development.**

The applicant has discounted several other sites for various reasons including the following:-

1. ‘site is only suitable for one dwelling’ - however this is not been explained further (albeit that some do only have permission for a single dwelling)
2. ‘site not affordable for the applicant’ – this matter has not been qualified by the applicant, and the cost of the site is not a prime consideration - particularly when compared to the applicants site (which he owns and will clearly be more affordable) – and no viability information has been submitted to demonstrate that such sites are not viable. In any event, it is the consideration of whether “the development” could be accommodated on another (lower-risk) site and not whether “the applicant” wishes to develop that site.
3. ‘site is too large’ –the applicant does not indicate why a proportion of the site could not be developed.

Of the sites noted by the applicant and discounted, the following assessment is made:-

3 Welby Lane

This is a site with extant permission for development including several pairs of semi-

detached houses which the applicant has disregarded as 'too large' although the site could be partially developed. It is not accepted that this site could not accommodate the development and no evidence has been provided to suggest its relatively recent, current, permission could be activated. **Accordingly, there is no evidence that this site is not suitable for the development or unavailable.**

152 Burton Road

This site had permission for a large detached dwelling (recently renewed) and has been discounted by the applicant as only suitable for 1 dwelling. However, it could accommodate the development of 2 semi detached dwellings and indeed the permission in place requires the development of smaller a dwelling. In view of the permission, the site size and the recent renewal of the permission (suggesting the site is being actively considered) **it is not considered that there is evidence that the site is unsuitable or unavailable.**

88 Dalby Road

This site has been discounted by the applicant as being greenfield with poor links to facilities, but could accommodate the development. **It is accepted this is a larger site that could not be reasonably developed for the proposal**

Hartopp Road

This 0.27ha site has been discounted by the applicant due to the loss of a community facility, but could accommodate the development. Whilst this reasoning could be challenged, the site is now fully redeveloped and **it is accepted it could not be developed for the proposal**

Beeby's Yard

The site is actively being pursued by the owner (a s106 agreement has been completed in April 2011) and the proposal contains semi detached dwellings. The applicant has discounted this site as not being affordable to the developer. It is considered that this reasoning is not an acceptable reason to discount a site (PPS25 requires an assessment of the site for the development proposed (n.b. not the individual developer)). **Accordingly, there is no evidence that this site is not suitable for the development or unavailable.**

177 Nottingham Rd

The site has a recent permission for a bungalow. It is discounted by the applicant as being unviable in financial terms and not able to accommodate the development. The question of viability has not been

explained but **it is agreed that the site is too small to accommodate the development.**

46 Rudbeck Avenue

This site has permission for 2 terraced dwellings. Although similar, this form of development differs from the application and it is considered it **could not accommodate the development as proposed.**

The Rills, Leicester Rd M.M

This site could accommodate the development but has been discounted by the applicant not being available for purchase (although no confirmation of this has been provided) and applicant cannot afford site, although this is not an issue as the consideration is whether the development (not the applicant) could be accommodated at the site. However, this site is quite large and has permission for 24 dwellings and is **unlikely to be suitable for the development proposed.**

In addition to the above, there are other sites within Melton that have not been considered by the applicant (for example 2 Brook Street, which benefits from permission for development containing similar to that proposed and 241 Nottingham Rd, which has permission for a bungalow and appears able to accommodate a development of this scale and nature)

On the basis of the analysis above, it is not considered that the proposed development has passed the sequential test, as it has not been shown that no other sites are available in areas of lower flood-risk that could accommodate the development. It is therefore inappropriate to release the current site for housing at this time, particularly one within flood-risk zone 3A.

In addition to the sequential test noted above, if that test had been passed, it would also be necessary to review the development against the exception test. The exception test requires any development to demonstrate that it would provide a sustainable benefit to the community that outweighs the flood-risk, as well as meeting requirements relating to safety, overall flood risk and brownfield site use.

In this respect, the applicant points out that the development is close to the town centre, which would allow for transport modes other than the car, and that a de-graded site would be improved.

This has been accepted in relation to other sites, and it is considered that had the development passed the sequential test, it would have then passed the

	<p>exception test.</p> <p>PPS25 advises that the exception test should only be considered if the sequential test is passed. As it is considered that the development fails the sequential test, it is not appropriate to move on to apply the exception test and there are no material considerations that would warrant the release of a site within the flood-risk zone at this time.</p> <p>On the basis of the information provided by the applicant it is considered that the development fails the sequential test and is therefore contrary to PPS25.</p>
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Representations:

A site notice was posted and neighbouring properties consulted. 1 letter of representation has been received commenting on the following:

Representations	Assessment of Head of Regulatory Services
<p>Melton Civic Society has a number of concerns:</p> <ol style="list-style-type: none"> 1. That the sequential testing has not revealed any reasonably available sites for this development. 2. The access along Park Avenue may not meet Highway standards 3. The plans show toilet facilities immediately off a food preparation area. 	<p>See commentary above</p> <p>In applying guidance in manual-for-streets, the highway is considered to be appropriate for the modest development proposed.</p> <p>This is not a planning consideration and is regulated by Building Regulations. However, this is now acceptable under the Building regulations</p>

Other material considerations (not raised through consultation or representation)

Considerations	Assessment of Head of Regulatory Services
<p>Application of Planning Policy</p> <p>Planning Policy Statement 1: Delivering Sustainable Development identifies sustainable development as the core objective which underpins planning; and, that planning should promote sustainable and inclusive patterns of development. The guidance requires councils to ensure the provision of sufficient, good quality new homes in suitable locations, whether through new development or the conversion of existing buildings.</p> <p>Planning Policy Statement 3: Housing sets out the national policy framework for delivering the Government’s housing objectives. With regard to the effective use of land, PPS3 states that Local Planning Authorities should continue to</p>	<p>As the site is located within the town envelope the site is considered to be in a sustainable location and the development complies with the requirements of PPS 1 and 3 for efficient use of land, prioritising brownfield land and mix of dwelling types and smaller households.</p> <p>Being within Melton and reasonably close to the centre, it meets the locational requirements of the Regional plan and the Core Strategy.</p>

<p>make effective use of land by re-using land that has been previously developed including land and buildings that are vacant or derelict. It goes on to state however that there is no presumption that land that is previously-developed is necessarily suitable for housing development nor that the whole of the curtilage should be developed</p> <p>PPS 3 states that development should seek to address any shortfalls in the supply of market housing and encouraging the managed replacement of housing, where appropriate. Local Planning Authorities should plan for the full range of market housing.</p> <p>OS1 supports the principle of development in the town envelope subject to certain criteria.</p>	<p>Whilst the greatest ‘local need’ in Melton is for 2 bedroomed units, the modest 3 bed roomed family houses proposed, when considered in conjunction with the existing approval for a modest dwelling and 2 small flats, is considered to be an appropriate ‘mix’ and therefore meets the identified local needs are advocated by PPS 3 and the Core Strategy.</p> <p>The development lies in the town envelope for Melton Mowbray.</p> <p>The proposal is therefore considered to be acceptable in terms of PPS1, PPS3 and OS1.</p>
<p>Visual Appearance</p>	<p>The proposal is a simple design that continues the form of the existing dwellings and will not look out of character in the street scene.</p> <p>The redevelopment of this degraded site is considered to be a visual improvement in the area.</p>
<p>Highway Safety</p>	<p>The site is close to the town centre, which will encourage modes other than the car, although Park Avenue is suitable to cater for the level of development proposed.</p> <p>PPG 13 indicates that developers should not be compelled to provide more parking than they wish to provide, unless the development would exacerbate a known problem. There are no parking restrictions on the highway, and no current problems.</p> <p>The proposal is to provide small family units and 2 parking spaces per dwelling will be provided which is considered to be appropriate.</p> <p>The proposal is considered to be acceptable in terms of highway safety.</p>

Amenity of neighbours	Due to the orientation of the new dwellings in relation to existing property and their gardens, it is considered that no appreciable loss of amenity would result from the proposals.
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Conclusion

The application seeks planning permission for the erection of a pair of semi-detached dwellings in the town envelope. It is considered that the proposal has been designed to have no impact on adjoining properties, is appropriate in design to the streetscene and is acceptable in terms of highway safety. Located in the town envelope the development is therefore considered to be in a sustainable location and meets the requirements of PPS1 and PPS3 and also provided housing to meet identified housing need. Therefore, the main consideration for Committee is whether the sequential test has been passed and whether it is appropriate to release a housing site within flood-zone 3a. The applicant has provided some information of available sites and why such sites have been discounted, although from the information, it is apparent that some sites which could accommodate the development and which are in a lower flood-risk zone have not been showed to be unavailable. Therefore it is considered that the development fails the sequential test and the land should not be released at this time In view of the applicant failing to provide compelling information to pass the sequential test the application is recommended for refusal.

RECOMMENDATION:- Refuse permission for the following reason:-

1. The application site lies within Flood Zone 3a defined by Planning Policy Statement 25 as having a high probability of flooding. Paragraph D5 of PPS25 requires decision-makers to steer new development to areas at the lowest probability of flooding by applying a 'Sequential Test'. The Local Planning Authority are not satisfied from the information provided, that other sites at a lower flood-risk are unavailable, and as a result, the proposal does not pass the sequential test , As a result, it is inappropriate to release the site for housing development at this time as the development would be subjected to an un-necessary level of flood-risk, contrary to the advice contained within PPS 25; Development and Flood-risk.

Officer to Contact: Mr Robin Forrester

16th May 2011