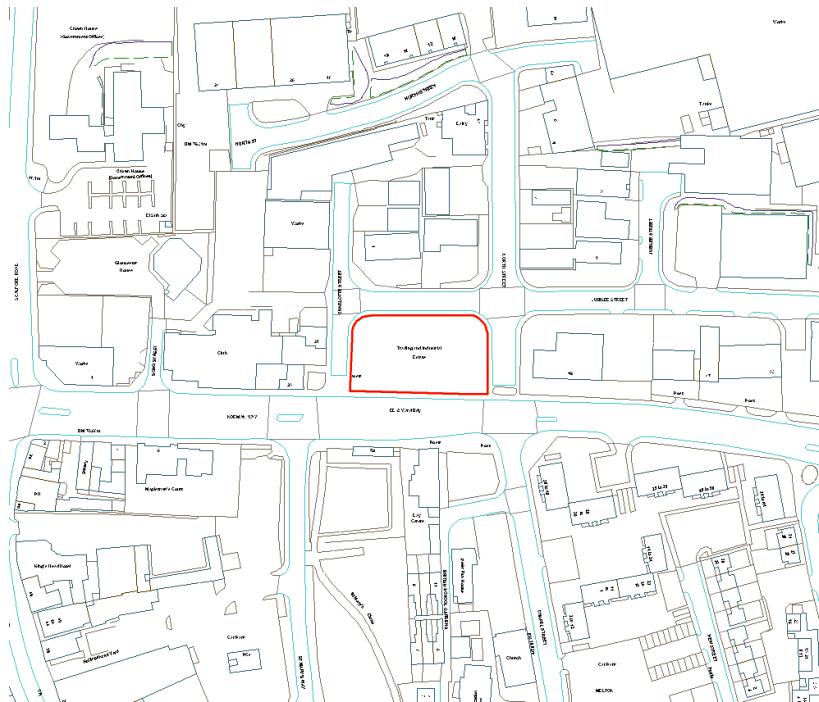


**Committee date: 25<sup>th</sup> May 2011**

**Reference:** 11/00215/EXT  
**Date submitted:** 16.03.11  
**Applicant:** Mr Michael Robson  
**Location:** Land Off, Jubilee Street, Melton Mowbray  
**Proposal:** Renewal of planning app re 08/00240/FUL for the proposed retail development including car park and associated works



**Introduction :-**

**This application relates to the extension of time for a previously approved retail unit of approx 750 sq m granted in May 2008, under planning reference 08/00240/FUL.** The site is located off Norman Way in Melton Mowbray and measures approximately 0.17 ha. The town centre, along with the primary shopping frontage is approximately 170 metres south of the site. The proposal seeks an extension of time to implement the planning permission for redevelopment of a site that has been redundant for a number of years. The site boundary is defined by the adjacent streets and is currently accessed from Jubilee Street. It is abutted by a variety of uses including small business and trade units and a garage. There are also residential properties in the immediate vicinity.

**It is considered that the main issues relating to this application are:-**

- **Consideration whether any factors have changed since the granting of permission in 2008**
- **Compliance with national policy PPS4 taking into account the retail sequential approach for retail development**
- **Loss of employment land**

The application is to be considered by the Development Committee as it is a major development and also because of the previous Committee involvement where it was considered, at that time, that the redevelopment of the employment site for retail development should outweigh the development plan and national policies.

#### **Relevant History:-**

08/00240/FUL - Retail development including car parking and associated works. Application permitted as it was considered by the Committee that the site lies in an edge of town centre location with a range of retail uses in close proximity. Its use for retail purposes would broaden the retail choice available within the town centre and no other sites considered preferable in terms of PPS 6 (the relevant national policy at that time) were considered to be available. The development would make use of a site which had stood vacant for an extensive period and was making no contribution to the economic development of the town. Access, design and amenity considerations were considered to be met by the design and layout of the proposal. It was considered that the above reasons were sufficient grounds to permit a departure from the Development Plan. A condition was imposed to remove 'food' sales from the site.

07/00278/FUL: retail development including car parking and associated works was withdrawn.

All other history relates to buildings formally occupying the site.

#### **Planning Policies:-**

**Planning Policy Statement 1: Delivering Sustainable Development** identifies sustainable development as the core principle which underpins planning; and, that planning should promote sustainable and inclusive patterns of development. A key principle involves the need to reduce journeys by car and to identify land for development in locations where there is, or the potential for, a realistic choice of access by means other than the private car. It states that planning authorities should focus developments that attract a large number of people, especially retail, leisure and office development, in existing centres to promote their vitality and viability, social inclusion and more sustainable patterns of development.

**PPS 4: Planning For Sustainable Economic Development:** sets out the national policy framework for planning for sustainable economic development in urban and rural areas.

To help achieve sustainable economic growth objectives include;

- delivering more sustainable patterns of development and reducing the need to travel, especially by car, and responding to climate change.
- promoting the vitality and viability of town and other centres as important places for communities the government expects new economic growth and development of main town centre uses to be focused in existing centres. This is implemented through a 'town centre first' approach and the need for development to demonstrate their impacts on existing centres would not be adverse.
- competition between retailers and enhanced consumer choice through the provisions of innovative and efficient shopping, leisure, tourism and local services which allow genuine choice to meet the needs of the entire community.

At a local level authorities should proactively plan to promote competitive town centre environments and provide consumer choice and adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably. The policy requires supporting evidence for planning applications for main town centre uses and those on edge of centre, where additional retail floorspace is created. A sequential assessment is required in order to facilitate development to suitable locations and impact assessment to assess impact upon existing facilities within the town

centre.

**PPS5: Planning for the Historic Environment:** The guidance sets out the Government's policies on the conservation of the historic environment. Paragraph HE7.2 states that in considering the impact of a proposal on a heritage asset the particular nature and significance of the heritage asset must be taken into account. This understanding should be used by the Local Planning Authority to avoid or minimise conflict between identified heritage assets.

**Planning Policy Guidance 13: Transport** advocates sustainable locations for all types of development, particularly those that are expected to attract large numbers of people. It also sets out national parking strategy on the basis of maximum standards that should not be exceeded, as part of a series of measures to discourage the use of the car as the principal form of transport. It states that local authorities should adopt a positive, plan-led approach to identifying preferred areas and sites for shopping, leisure and employment. Retail facilities, preferably, should be located within town centre sites, followed by edge of centre sites which are easily accessible by public transport, walking and cycling.

**Melton Local Plan (saved policies):**

**Policies OS1 and BE1** allow for development within Town Envelopes providing that:-

- 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 its 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 EM2** - planning permission will be granted for employment development on land allocated for employment use on this site, subject to amenity and compatibility of the proposal with surrounding land uses, layout, density, siting, design, landscaping and access and parking details.

**Melton LDF Core Strategy:** Melton Mowbray is the main shopping area in the Borough and improving the town centre is identified as a key objective in the Core Strategy. It states that retail developments should be located in the town centre to promote vitality and viability, social inclusion and more sustainable patterns of development.

A Masterplan was developed for the town centre to help establish its role, encourage economic growth and create a safer, more attractive environment for shoppers, visitors and those who live and work in the town centre. Although not adopted for planning policy/site allocation purposes, identified development opportunities within the town centre.

The Employment Land Study prepared to assist with the LDF states that most of the Borough's established employment areas are of a reasonably good condition and should be safeguarded for employment use. These include locations such as Saxby Road Industrial Estate, Leicester Road Industrial Estate and Snow Hill Industrial Estate.

**Consultations:-**

<b>Consultation reply</b>	<b>Assessment of Head of Regulatory Services</b>
<b>Highway Authority</b> – No objections to an extension of time to implement the consent subject to the previous conditions regarding access, parking and visibility splays being imposed.	Noted.  <b>The proposal is considered acceptable in terms of highway safety.</b>
<b>Conservation Officer</b> – The site is sufficiently	<b>There are no changes proposed from the</b>

<p>distant from the listed building on the opposite side of Norman Way to not affect its setting.</p> <p>This is a commercial/light industrial area on the edge of the town centre and the proposed unit is designed in the spirit of the existing units around it. All have an element of brickwork and cladding with shallow pitched roofs in either tiles or cladding. Disappointed that the roadside elevation facing the listed building is plain and feel that the principal frontage of the unit should be facing Norman Way.</p>	<p><b>approved permission in 2008.</b> The proposed unit is single storey and has a ridge height of 8.4 metres. The height of the proposed building is considered to be in keeping with the scale and mass of surrounding properties. The elevations have been designed with horizontal cladding panels punctuated with brickwork piers to add interest to the building and also to help break up the scale and massing. The materials are considered to be in keeping with adjacent buildings and suitable for the area. The eastern elevation provides the main entrance into the store from the car park and this is emphasised by a canopy feature above the glazing panels. The design of the southern elevation is considered particularly important given its prominent location on Norman Way and both the glazing and canopy feature have been repeated on this elevation to create a ‘dummy’ entrance which adds interest to this elevation.</p>
<p><b>Head of Policy and Performance –</b> The site is allocated for business use under Policy EM2 in the adopted Melton Local Plan. The policy allows for the use of the site for business class uses B1 (offices, light industry, R&amp;D), B2 (general industry) and B8 (storage and distribution).</p> <p><u>Melton Employment Land Study</u> The study refers to consultations undertaken with local businesses and land/estate agents regarding the need for appropriate land and buildings to satisfy the demand for local SMEs (Small and Medium Enterprises). Consultation responses clearly indicate that there is a shortage of suitable freehold business space in the Borough. The report says that Melton is attractive and well suited to start-ups and small businesses and that the Council should foster such activities by facilitating small scale offices and high quality business units. In assessing this latent demand it says that consultations with local agents reveal that good quality modern office accommodation would be taken-up and that the low historical take-up is not due to low demand but availability of accommodation.</p>	<p>The land is currently allocated for business uses under ‘saved’ Policy EM2 of the Melton Local Plan. The proposal is for a retail unit and therefore the principal of the development is contrary to the provisions of the development plan.</p> <p>The application seeks a renewal of planning permission for a retail development on a site that forms part of an existing industrial estate in what is considered to be an edge of town centre location. In 2008 the proposal was considered to be an exception to warrant a departure from the provisions of the Development Plan due to the benefits the short term economic opportunities it could offer to the town <b>and</b> because no more central sites were available (see Planning History Above). The land had been vacant for a considerable amount of time in 2008. Three years on and the site has still remained undeveloped.</p> <p>In the light of consultations with local businesses the Melton Employment Land Study 2006 says there is a shortage of small freehold business sites where units can be erected for Small and Medium Enterprises (SMEs) in the Borough. The study also refers to the latent demand for small scale office development, particularly in the town centre, that is currently not being satisfied. It concludes that most modern units have sold rapidly across all unit sizes and locations. The Council currently owns 20 units within the site and only has one vacant unit which still supports the argument that the demand is still strong on this site even during this economic down turn.</p>

<p>The study also identifies important industrial areas that should be safeguarded from redevelopment for other uses. The Snow Hill Industrial Estate (including the application site) is classified as 'Good'.</p>	<p>The Employment Land Study states that 30ha of employment land should be found to 2026. It states that the Snow Hill area provides a good relationship between this site, Snow Hill and the amount of employment land needed for the future. It is still considered that the loss of this allocation would have implications for the supply of employment land particularly office uses which should be provided in close proximity to the town centre.</p>
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**Representations:**

A site notice was posted and neighbouring properties consulted. As a result not letters have been received objecting to the proposal on the following grounds:

**Other material considerations (not raised through consultation or representation)**

Consideration	Assessment of Head of Regulatory Services
<p><b>Application of Local and National Policy on retail development:</b></p> <p><b>PPS4 was issued in December 2009 and is the most up to date policy statement and is therefore affords great weight in determining this renewal application.</b></p> <p>PPS4 adopts a 'town centre first' approach to retail development. It implements this by permitting out of centre development only if it can be demonstrated that:</p> <ul style="list-style-type: none"> <li>• There are no 'sequentially preferable' sites available, suitable and viable (i.e. closer to the town centre, and/or with better links to it)</li> <li>• There would be no adverse impact on the functioning of the town centre</li> <li>• Developers have been flexible regarding their proposal (i.e format and disaggregation; car parking), bearing in mind genuine retailing requirements</li> </ul> <p>Central to the policy is the viability and vitality of the town centre and an impact test must be passed for out of town centre locations, addressing:</p> <ul style="list-style-type: none"> <li>• Plans for future investment</li> <li>• Overall vitality and viability</li> <li>• Consumer choice (i.e range of shops and goods available)</li> <li>• The impact on in centre turnover</li> <li>• Scale in relation to the town centre</li> </ul> <p><b>PPS4 (policy EC15)</b> adopts a 'town centre first' approach to retail development. It implements this by permitting out of centre development only if it</p>	<p>The procedures to be followed in relation to applications to renew permissions (whether it be extant consents or recently expired permissions), identifying three basic "tests" that should be applied by the decision maker and which are the <b>only matters that should be considered</b> in relation to such applications.</p> <p>It states that consent should only be with-held if the Local Planning Authority can point to a change in Policy (either from Central Government or the Development Plan); or a change in circumstance that would warrant making a different decision; or if the failure to implement the permission would hinder the proper planning of the area.</p> <p>PPS4 significantly post-dates the Local Plan and was introduced after the granting of the p[ermission in 2008.. The principal objective of PPS4 is to focus development within town centres in pursuit of the broader objective of enhancing customer choice and the vitality/viability of the town centre. Where retail development is proposed outside Town Centres, a series of tests are required (the 'Impact test' and 'Sequential test' - see details opposite).</p> <p><b>The applicants have declined to provide updated information as required by PPS4 policy EC15 to allow the Council to fully consider the impacts that would occur resulting from renewing the retail permission in this location.</b> However, the applicants submit that this application for renewal of the planning permission should be allowed as there are no change in circumstances. The site has been vacant for over 20 years and therefore</p>

<p>can be demonstrated that:</p> <ul style="list-style-type: none"> <li>- There are no 'sequentially preferable' sites available, suitable and viable (i.e. closer to the town centre, and/or with better links to it). The methodology to be followed requires that: <ul style="list-style-type: none"> <li>- (a) they should be assessed for availability, suitability and viability,</li> <li>- (b) all in-centre options should have been thoroughly assessed before less central sites are considered and</li> <li>- (c) preference is given to edge-of-centre locations with good pedestrian connections to the centre where there are no suitable town centre sites.</li> </ul> </li> <li>• There would be no adverse impact on the functioning of the town centre</li> <li>• Developers have been flexible regarding their proposal (i.e. format and disaggregation; car parking), bearing in mind genuine retailing requirements</li> </ul> <p>PPS 4 advises that where it is argued that otherwise sequentially preferable sites are not appropriate for the particular development, applicants should provide <u>clear evidence</u> to demonstrate why such sites are not practicable alternatives in terms of availability, suitability and viability. The guidance also required applicants to undertake an assessment of impact to consider the effects of the proposal on the vitality and viability of existing centres, including the likely cumulative effect of recent permissions.</p>	<p>maintains that it can be argued that there is no demand for employment use on this site. The site is available now, is in a suitable location and achievable, insofar as there is a reasonable prospect that the proposed development will take place in the short term. The economic downturn has been considered as a contributing factor in why the site has yet to be developed.</p> <p>Factually, there is a change of circumstance since the permission in 2008 because PPS4 has been introduced. PPS4 specifies that development of the scale proposed requires a 'sequential test' for development over 250 sq. m. and that applications should be <b>refused</b> planning permission where they have not demonstrated compliance with the sequential approach. It requires an 'impact assessment' for out-of-centre proposals.</p> <p>However, its introduction alone does not indicate that permission should be refused and assessment of the effect of its introduction is necessary. The main significance of the introduction of PPS4 is considered to be the requirement of an up to date 'impact assessment' and 'sequential test' and the importance of the absence of updated information is addressed as follows:</p> <p><b><u>Impact assessment</u></b>  Since 2008 there have been a number of retail studies carried out which, in each case, took into account the existence of the permission on this site and concluded that capacity for this scheme AND additional capacity existed within the town. <b>Accordingly, it is considered that an up to date understanding is available and a revised 'impact assessment' is not required.</b></p> <p><b><u>Sequential Test</u></b>  Since 2008 there have been several applications in the town (e.g. Nottingham Road, Asfordby Rd and Burton Road) which investigated the range and availability of sites for retail development. These have identified town centre sites that the applicants have not addressed in terms of the sequential test nor were they present in the exercise carried out in 2008. In addition, permission has been granted for sites that were not considered in 2008 (Burton Rd and Nottingham Rd).</p> <p><b>The profile of the town is changing and without revisiting the 'sequential assessment' a fully informed assessment of the PPS4 (EC15) requirements can not be made in regards to site availability.</b></p>
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	<p><b><u>Conclusion</u></b>  <b>There has also been a significant change in the town's 'retail' profile and with the introduction of new policy guidance contained within PPS4 the renewal of the planning permission is not supported. The applicants have failed to comply with the new policy PPS4 (EC15) 'Retail Sequential Assessment' and have not taken into consideration sites that were not addressed in 2008. For this reason it is considered that the application should be refused.</b></p>
<b>Design and appearance of the development</b>	<p>The application proposes the development of a single retail store of approximately 749 sqm. The area directly around the site is mainly used by small businesses and consists of light industrial and trade units. There is a large unit to the east which is a Suzuki Garage and there are a number of other trade units in the vicinity.</p> <p>The proposed unit is single storey to reflect the adjacent buildings and the height of the building (8.4m to ridge and 6.8m to eaves) is similar to the adjacent car showroom to the east. The overall scale and mass of the building allows for satisfactory on site car parking and landscaping.</p> <p>The site is currently in a dilapidated condition and contributes little to the character and appearance of the area. <b>The proposed development is therefore considered to improve this prominent site and to enhance the character and appearance of the area.</b></p>
<b>Impact on residential amenity:-</b>	<p>The proposed development is considered to be appropriate to such a town location in residential amenity terms. Whilst it is recognised that there are residential properties to the west of the site on Wilton Terrace, it is noted that they lie a minimum of 14m from the side of the building and are separated from it by Charlotte Street.</p> <p>The proposal is located adjacent to a number of other commercial and retail uses. <b>The proposal is therefore considered to be in keeping with the area and would not adversely affect the residential amenities of nearby dwellings.</b></p>

**Conclusion**

The application proposes retail development on a site that is currently allocated for employment use in the adopted Melton Local Plan which sits in an edge of town centre location. In order to grant planning permission for such development, which is contrary to the provisions of the development plan, it would be necessary for the Local Planning Authority to consider that the demand for the retail development is sufficient to warrant departing from the relevant policies. In this instance, despite no evidence having been submitted by the applicant to assess the impact of the retail development, it is considered that – because the site was included in these assessments and they concluded that sufficient capacity existed - there is sufficient up to date information to conclude that the impact of the proposal on the town centre would not be adverse.

However, since the granting of the consent in 2008 the profile of potentially available sites within the town centre has changed and these have not been addressed as required by PPS4. This is a shortcoming within the applicable policy approach and PPS4 advises “Planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date development plan **should be refused planning permission where:** the applicant has not demonstrated compliance with the requirements of a sequential approach (policy EC15)”

It is considered that the proposal would result in the loss of an important business site which is supported by Local Plan policy and has been identified as making a valuable contribution to industrial land supply.

**The site is not allocated for retail use and can only be approved as such if material considerations are present to justify a departure from the Local plan, which allocates it for industrial use. In 2008 material considerations were present which allowed for this, on the basis of the vacancy of the site and the absence of alternatives in the town centre. Upon review, the question of alternatives (the sequential test) has not been addressed and as such the justification to depart from the Local Plan that was present in 2008 is no longer reliable.**

**RECOMMENDATION:-**

- 1 In the opinion of the local planning authority the proposal would result in a retail development on a site that is currently allocated for employment use. It is not considered that sufficient justification has been submitted to demonstrate that there is no demand for employment land in this part of the town. The application is therefore considered to be contrary to saved Policy EM2 of the adopted Melton Local Plan.
- 2 In the opinion of the Local Planning Authority insufficient information has been provided in accordance with the advice contained within national policy PPS4 relating to ‘sequential assessment’ of the site. The proposal is therefore considered to be contrary to Planning Policy Statement 4 which seeks to promote the vitality and viability of town centres.

Officer to contact: **Mrs Denise Knipe**

**12th May 2011**