



DEVELOPMENT COMMITTEE

29 APRIL 2010

PRESENT:

M. Barnes (Chairman)
P. Baguley, G.E. Botterill, P.M. Chandler, P. Cumbers
J. Illingworth, M. Moore, J. Wyatt

Head of Regulatory Services, Principal Solicitor
Principal Planning Officer (JW), Principal Planning Officer (KM)
Democratic Services Clerk

D76. APOLOGY FOR ABSENCE

Apologies for absence were received from Councillors Holt and Jackson.

D77. MINUTES

The Minutes of the meeting held on 8 April 2010 were confirmed and authorised to be signed by the Chairman.

D78. DECLARATIONS OF INTEREST

There were no declarations of interest.

D79. SCHEDULE OF APPLICATIONS

RESOLVED that the undermentioned applications be determined as follows and unless stated otherwise hereunder in the case of permissions subject to the conditions and for the reasons stated in the Schedule of Applications and in the case of refusals for the reasons stated in the schedule.

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- (1) Application : 10/00055/FUL**
Location : Melton Meat Limited
Proposal : Farm Buildings Next to Baytree Farm, Stygate Lane, Pickwell,
Conversion and extension of existing farm building to form Abattoir and associated facilities.

The Head of Regulatory Services stated that it was recommended that this application be deferred due to the large amount of additional paperwork received in the last few days. The Chairman stated that the speakers could still speak and there would be a vote on the deferment of the application.

(a) Mr H. Blakeworth was invited to speak on the application and stated that

- The application did not contain enough information for Members to make an informed decision
- The application lacked information about waste treatment and disposal arrangements
- The Highways Agency response had been received too late to consult the local parishioners
- The application included sheep and goat slaughter
- There was no mention of an incinerator in the application
- Members needed further details and time to consider the application prior to making a decision

(b) Mr S. Mansfield was invited to speak on the application and stated that :-

- He was representing Members of the local community
- He sent a letter to the Development Team which needed to be considered before making decision
- The application should be judged through consultation and approval not discharged conditions
- The application could impact the environment significantly
- Members needed proper information prior to making a decision
- No information had been received from the Environment Agency and Severn Trent
- There could be a conflict of interests – due to the redevelopment of the Cattle Market site
- The Abattoir was designed for 5000 sheep per week
- The reported traffic movements were wrong
- Approval for the incinerator was not included in the application
- The application was in breach of the Local Development Framework
- The application was in breach of policies OS2 and C6
- The site was inappropriate
- It was an industrial building in the countryside
- An appropriate site would be an industrial site with mains sewerage
- The application should be deferred or rejected.

(b) Mr K. Hamilton was invited to speak on the application and stated that

- He was a qualified architect and a resident of Somerby
- There had been a short consultation period
- It was clear that local people had undertaken considerable research
- Abattoirs should be excluded from residential areas and in industrial areas only
- Licensing and training should be undertaken
- Relevant agencies should advise of environmental concerns
- A large house was just 80 metres away from the proposed abboitor
- The large incinerator had not been mentioned.

(c) Mr R. Lane was invited to speak on the application and stated that

- There was no intention of installing an incinerator
- He was a director of Melton Meat
- He was happy to work with conditions presented to them
- He wanted the proposals to be no nuisance to local residents
- He and his wife lived in Pickwell
- The proposed site was ideal
- There would be no added stress of sheep being transported prior to slaughter

Councillor Illingworth enquired about the sheep movements per week. The Head of Regulatory Services stated that it was something that could be clarified at the next meeting.

Councillor Barnes moved to defer the application and Councillor Wyatt was a seconder for this proposal. On being put the vote, the motion to defer was carried unanimously.

DETERMINATION : Deferred, to allow consideration of the recently submitted material and to seek clarification of the issues raised by the speakers.

(2) Application : 10/00054/FUL
Location : Rev Martin Dale
Proposal : St Mary's Church, Burrough on the Hill
Installation of external air source heat pump units
for heating in the Church and hedge screen
planting

(a) Mr Blayney was invited to speak on the application and stated that

- The Church had carefully considered all of the options with regard to heating
- The installation costs were low
- The pump units produced low co2 emissions
- They wished to see the least possible damage to this listed building
- The Church had given considerable consideration to minimise the impact
- The noise would not be heard by the neighbours

(b) A Parish Council Representative was invited to speak on the application and stated that

- He wanted the Church to remain viable
- The Church needed to be kept in good order
- The unit would be a visual and audible nuisance to close residents
- As Burrough on the Hill was a peaceful village the unit would be more noticeable
- The Parish Council accepted that English Heritage had not objected
- There had been lots of objections from close residents

Councillor Barnes proposed to refuse the application on the grounds of visual impact. Councillor Wyatt was a seconder for this motion.

On being put to the vote, the motion to refuse was carried unanimously.

DETERMINATION : Refuse for the following reason:

- 1. The proposed heat pump units, by virtue of their appearance and location, would be detrimental to the visual amenity of the area and residential amenity of the adjacent property, contrary to Policy OS1 of the adopted Melton Local Plan.**

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- (3) Application : 10/00157/FUL**
Location : Rev Martin Dale – The PCC of St Marys Church, Burrough on the Hill
Proposal : St Mary’s Church, Burrough on the Hill
Installation of external air source heat pump units for heating in the Church within fenced enclosure

Councillor Wyatt moved to permit the application. Councillor Illingworth enquired if there could be screening included as a condition and seconded the motion to permit. Councillor Wyatt included the addition of the condition.

Councillor Botterill stated that heating units were a very good and economical way to heat a building.

On being put to the vote the motion to permit was carried unanimously.

DETERMINATION : Permit subject to the condition(s) listed within the Committee report, additional conditions, and for the following reason(s) :-

Conditions:-

- 1. Fencing to be provided alongside the existing hedge, to screen the sight of the units whilst the hedge was not in leaf;**
- 2. The units to be coloured in a colour to be agreed.**

Reasons

- 1. In those terms the development was considered to be acceptable in terms of design and the amenities of neighbours. As such, the proposal accords with the objectives of the above policies and paragraph 7.2 of PPS5.**

COMMITTEE UPDATE 09/00600/COU: Change of use of chapel to 1 bedroom dwelling, Stanley lane, Eastwell.

The Principal Planning Officer (JW) stated that

(i) this application sought planning permission for the change of use of a Grade II Listed Chapel into a one bedroom dwelling. Members would recall that this application was deferred from the previous Committee to allow for the applicant to clarify if parking provisions could be provided elsewhere in the site;

(ii) the applicant had stated that they are satisfied that they had provided necessary parking provisions and maintain that parking can be provided in the form of the garages and no alternative site was considered to be necessary. Since publication of the report a letter had been received from the applicant’s solicitor stating that the applicant had gone to the expense to unite the Chapel and the garages in the same Land Registry title with the express intention of ensuring that they remain in common ownership in the event of a future sale. The Solicitor had stated that the arrangement would be fully addressed by making it a condition of planning consent for change of

use of the Chapel that the use and occupation of the two garages on the opposite side of the driveway was available to the property;

(iii) in response to the objectors solicitor stating that the Chapel had no vehicular right of way over the access and therefore should be refused the applicants solicitor was stating that it was beyond dispute that a future owner of the Chapel who also owned the garages would have a lawful means of access, even if the route of this had to be via the pedestrian access from the Chapel to Stanley's Lane and thence by the pedestrian and vehicular right of access over the driveway to the garages. The argument that it did not provide a lawful means of access from the Chapel to the garages cannot be sustained;

(iv) a letter had been submitted by the objectors solicitor restating that the new residential unit was in an unsustainable location and had a potential lack of lawful access and therefore lack of off street parking provision. The application was deferred to request additional information and one member suggested an additional legal opinion and from the Committee report it was clear that the applicants had failed to provide further information regarding parking and no legal advice on the legitimacy of the right to use the access and therefore the lawfulness of the proposed off street parking. Therefore, it must be accepted that the applicant and the Chapel did not benefit from any vehicular right of way and cannot provide off street parking. The application should therefore be refused. It was their firm view, supported by case law that the applicant did not benefit from a vehicular right of access and it was irrelevant that the applicant had sought to amalgamate the title for the garages with the title to the Chapel. They stated further that a new residential unit in an unsustainable location such as Eastwell must be accompanied by off street parking;

(v) they accept that the existing planning use could be considered to require additional parking with the area, however, as the Chapel was built to serve the locality of Eastwell it can be assumed that the Chapel would be utilized by people who would walk to the Chapel. The Chapel had not been used since the 1970's and as the preservation of the Chapel was considered paramount by the applicant they would have considered the resumption of the use as a Chapel had it been viable to do so. Therefore it was the case that there was no possibility of the Chapel resuming its day to day use as a Chapel and to that extent the suggested "fallback" position of the Chapel requiring more on street parking was considerably flawed and should be given limited weight. They stated further that in the event of planning permission being granted their client would consider preventing the exercise of any rights of vehicular access over the access in connection with the use of the former Chapel as a residential unit. The development simply would not be capable of being lawfully brought forward;

(vi) whilst they appreciate the importance of the preservation of listed buildings, in this case, due to the problems with the access and off street parking they submit that this consideration should carry very limited weight and certainly should not outweigh the Development Plan to the extent that permission was granted for a residential scheme in a highly unsustainable location without off street parking;

(vii) there was no objection from the highway authority with regards to off street parking or highway safety due to the extant use having far greater implications to highway users. The applicants had demonstrated that parking provisions can be made available and if the rights of way were withdrawn it was considered that due to the extant use the development of a 1 bedroom dwelling would not exacerbate highway issues to an extent to warrant a refusal;

(viii) the applicants were satisfied that they had provided the necessary parking provisions for use by future occupiers by the amalgamating the title deeds for the garages with those for the Chapel and did not proposed an alternative. The 1970 Conveyance confirmed that the vehicular access rights attached to the garages extend over the whole driveway from Stanley's Lane to a point beyond the garages. They maintained that parking could be provided, in the form of the garages, and no alternative site was considered to be necessary.

The Principal Planning Officer (JW) stated that the application had been deferred to ask if the Applicant could get alternative parking and the applicant responded to state that they were not required to as parking was already provided onsite.

Councillor Botterill stated that he disagreed with the Highways Authority's comments and enquired if a no parking sign could be erected. The Principal Planning Officer (JW) stated that there were 2 differing legal opinions on the matter and if the right of access was taken away it would not remove the vehicular right of way.

Councillor Cumbers proposed to permit the application. The motion to permit was seconded. The Principal Planning Officer stated that the issue of taking away the right of parking was a civil issue.

On being put to the vote, the motion to permit was carried with 5 in favour and 3 against.

(Councillors Barnes, Botterill and Chandler requested that their votes against this decision be recorded.)

DETERMINATION : Permit subject to the condition(s) listed within the Committee report and for the following reason(s) :-

- 1. The use of the chapel as a residential dwelling did not receive any objection from the Highways Authority due to the extant use having far greater implications to highway users. The issues relating to rights of way had been discussed at great length, which led to the amalgamations of the title deeds for the chapel and garage. The applicant's had demonstrated that parking provisions could be made available and if at some time in the future parking was not available through the withdrawal of the rights of ways. However, it was considered that due to the extant use, the development of a 1 bedroom dwelling would not further exacerbate highways issues to an extent to warrant a refusal of the application.**

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- (4) **Application :** 10/00130/COU
Location : Dianne Login
Proposal : Belvoir Brewery, Crown Business Park, Station Road, Old Dalby, Melton Mowbray LE14 3NQ
Change of use of Brewery and Exhibition Centre to use as Brewery, Exhibition Centre and Public House.

Councillor Chandler proposed the recommendation within the report and Councillor Moncrieff was a seconder for this proposal.

On being put to the vote, the motion to permit was carried unanimously.

DETERMINATION : Permit subject to the condition(s) listed within the Committee report and for the following reason(s) :-

1. **Based on the assessment of the planning considerations relevant to the case it was considered that, by virtue of the Development Plan and later National Policy Guidance, the use was acceptable in principle, and there were no issues arising in amenity or design/appearance terms. The Highways Authority had reservations about the level of parking provision and the impact of the use on sightlines at the junction from the trading estate, which could be dealt with by condition;**
2. **It was considered that, taking into consideration the Committee's previous consideration of this development, planning permission for the expansion of the use to include a public house use should be permitted, with conditions stipulated in respect of the sightline across the frontage of the development site.**

COMMITTEE UPDATE 08/00990/FUL: Provision of new retail area on site of existing house and outbuildings; Gates Nursery and Garden Centre, Somerby Road, Cold Overton

Councillor Botterill moved to permit the application. Councillor Barnes was a seconder for this proposal.

On being put to the vote, the motion to permit was unanimously carried.

DETERMINATION : Permit subject to the condition(s) listed within the Committee report and for the following reason(s) :-

1. **The proposal had now been considered by the Secretary of State who had advised that – with the proposed controls (conditions) – he did not wish to intervene against the Council's intention to grant permission. There had been significant changes to the policy framework at National level under which the application was to be determined, but it was not considered that these affect the basis on which the original intention to grant permission had been reached.**

D80. AWARD OF COSTS AT PLANNING APPEALS

The Head of Regulatory Services submitted a report (copies of which had previously been circulated to Members) to inform the Committee of the award of costs against the Council in respect of recent appeal decisions and to review and enhance the action plan for the consideration and approval of the Committee.

The Chairman noted that the costs were averaged over the year. Councillor Cumbers stated that there needed to be a discussion as to what was unreasonable behaviour. The Head of Regulatory Services stated that they would work through this with the Committee.

RESOLVED that the action plan be noted.

D81. URGENT BUSINESS

There was no urgent business.

The meeting which commenced at 5.30 p.m. closed at 6.30 p.m.

Chairman