

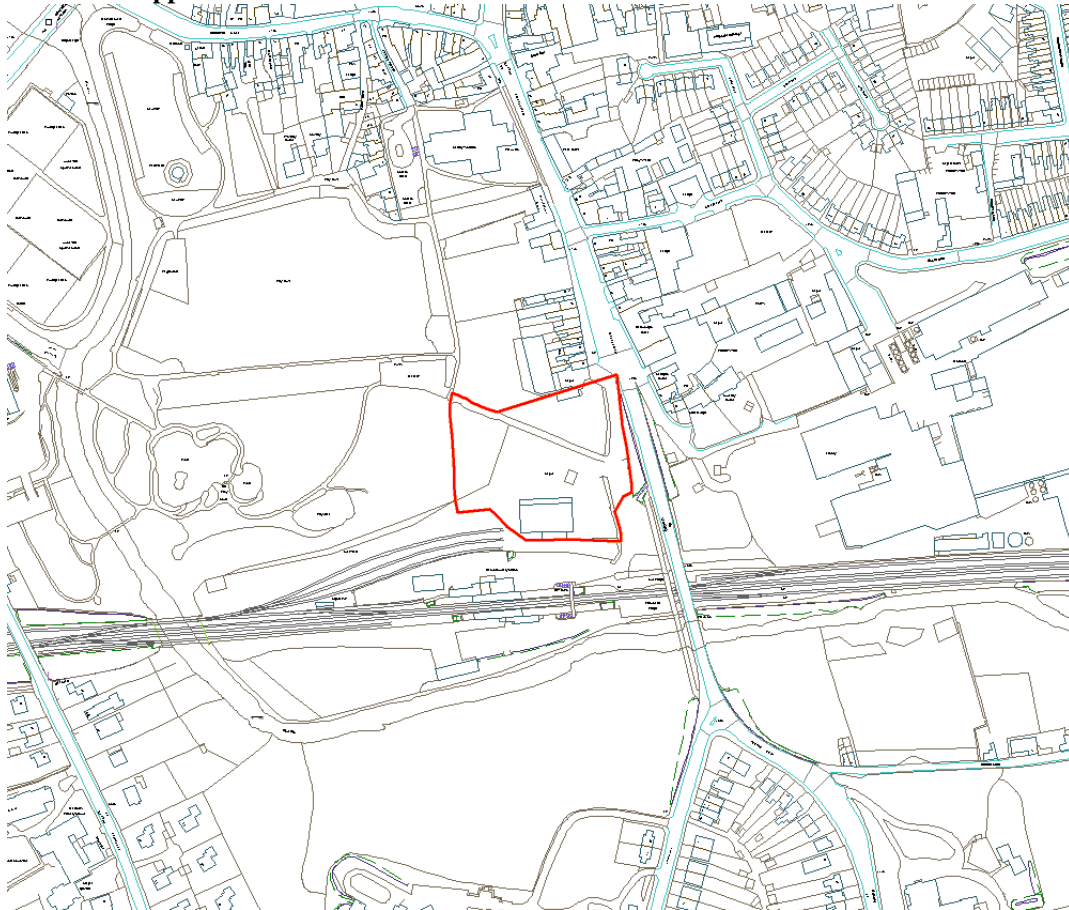
Reference: 10/00948/VAC

Date submitted: 20.12.10

Applicant: Mr David Blanchard - Melton Borough Council

Location: Town Station Site, Burton Street, Melton Mowbray, ,

Proposal: Removal of Condition 13 (requirement for a bus stop) relating to planning application 10/00634/VAC



Introduction:-

This application seeks planning permission to remove condition 13 of the planning permission, which made a requirement to accommodate a new bus stop in the site

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

- **Whether the bus stop is necessary to allow the development to go ahead.**

The application is presented to the Committee because the proposal comprises a departure from the consultation reply received from the Highway Authority

Relevant History:-

09/00860/FUL: New Council Offices and Civic Hall including alterations to the Station approach road and Mucky Lane was approved on 3rd March 2010 and included a condition as follows:

The development shall not be occupied until a bus stop is provided outside new offices (including provision for a shelter, raised kerbs and timetable). Details of the provision and its location shall be submitted to and agreed by the Local Planning Authority prior to commencement of development.

10/00472/VAC and 10/00634/VAC were application which both sought a variation of the conditions on the original permission (above). These were granted and the condition was re-imposed on both occasions.

Planning Policies:-

PPS1 - Delivering Sustainable Development – Promotes good design that respects locally distinctive character, sustainable development/reducing car usage.

PPG13: Re-emphasises the need to reduce car travel and the need to achieve this through identifying locations accessible by a variety of transport options and promoting non-car usage

East Midlands Regional Plan

Encourages sustainable development and discourages car-usage

Consultations:-

Consultation reply	Assessment of Head of Regulatory Services
<p>Highway Authority –</p> <p>While no bus routes currently serve the station, it is possible that an operator may see a market opportunity here once the junction is improved and the new offices are built, as there will be two attractors in the area</p> <p>It is likely however that the stop will only be required if local bus operators wish to operate to the offices and the station; this in turn is only likely to happen if the County Council's plans to improve the interchange facilities at the station come to fruition. At the moment we are some way from this scenario.</p> <p>The Highway Authority would have preferred if Melton Borough Council had submitted an application for a variation of condition 13 of 2010/0634/06, so that it comes into force when a bus service has been registered to serve the offices and station rather than before first occupation. Any variation would cover the need to allow for a suitable area for a bus stop in the road lay-out / plans; and also confirm that the Borough Council will provide, at their expense, the infrastructure required.</p>	<p>The comments of the HA appear to be founded partly on an aspiration that a bus company will be attracted to the site after the development is operational, rather than as a direct causal link with the development.</p> <p>Circular 11/95 on the use of conditions requires that they can be used only if related to the development proposed and necessary to enable a development to proceed.</p> <p>Based on the comments from the HA, it is considered that these tests are not fully met, not least because there is no assurance that a bus service will follow. By implication, is not therefore considered to be 'necessary' but more 'aspiring' in nature.</p> <p>Furthermore, it is evident that the HA aspire that the bus stop would serve the future needs of railway passengers in addition to those of staff and visitors to the offices. Again this prompts concern regarding the tests of Circular 11/95 which requires conditions to relate to the development concerned. The comments suggest the bus stop was intended to meet wider needs than solely the office development which would be beyond the scope of these tests.</p> <p>Accordingly, it is considered that whilst the desirability of the condition is understood, its provision prior to the use of the building is not justified and would be without benefit unless a bus service started.</p> <p>The Council is able to re-impose a condition and the condition suggested by the HA is considered reasonable to link the development to the presence of a bus service.</p>
<p>Scalford PC – no comments</p>	<p>Noted</p>

Network Rail – no comments	Noted
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Representations:

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

Representation	Assessment of Head of Regulatory Services
<p>Objection from Melton Mowbray and District Civic Society</p> <p>The proposed removal of the condition for a bus stop at the new Council Offices is discriminatory and does not promote social inclusion; it is contrary to objectives set out in Planning Policy Guidance 13: Transport (updated January 2011).</p> <p>This request for variation of conditions to allow the 'Bus Stop' condition to be removed should not be permitted. In the reasoning accompanying the request it is stated that there is an existing bus stop in close proximity to the new Council Offices (approximately 150-200 metres from the entrance to the new building). This distance is not close; it is nearly as great as the distance between bus stops in urban areas. For elderly and disabled people and parents with young children the distance of 200 metres is considerable. The nearest bus stop is not well located and additional usage is likely to cause traffic congestion - it would be illogical to modernise or improve this stop rather than provide the new stop previously agreed.</p>	<p>Bus stop facilities exist at a distance of approximately 150m from the development which it is considered is not a distance that would deter its use by staff and visitors.</p> <p>With regards to the discriminatory nature of the application, it is commented that there is no benefit in providing a bus stop if no service uses it. Linking provision to a service, rather than the building, would be more logical.</p>

Conclusion

The bus stop was an element of the development required by conditions recommended by the Highway Authority. However, their recent comments indicate that it is neither justified by the development nor necessary to allow it to proceed and as such is inappropriate in its current form as a condition. It is considered it would be more logical and reasonable to link it to a service.

A s73 'Variation of condition' permission constitutes a fresh permission for the entire development and as such a fresh permission, with conditions addressing all aspects of the development, should be granted.

RECOMMENDATION

Approve, subject to the following conditions, with condition 13 amended as follows:

Within 6 months of a bus service being registered to serve the offices and station, a bus stop shall be provided outside new offices (including provision for a shelter, raised kerbs and timetable). Details of the provision and its location shall be submitted to and agreed by the Local Planning Authority prior to its installation.

MATERIALS

1. The development shall be carried out using only those materials approved the Local Planning Authority (LPA) on 13th January 2011, unless otherwise agreed in writing with the LPA.

LANDSCAPING

2. The landscaping carried out on the site shall be in full accordance with the details approved by the Local Planning Authority (LPA) on 17th June 2010, unless otherwise agreed in writing with the LPA.
3. The approved landscape scheme (both hard and soft) shall be carried out in the first planting season following the occupation of the buildings or the completion of the development, whichever is the sooner; unless otherwise agreed in writing by the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall

be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

HIGHWAYS AND PARKING

4. Prior to the occupation of the development, the applicants shall undertake to carry out and complete the footpath and highway improvements and other measures identified on the approved plans and the Transport Assessment, with the exception of the pedestrian ramp linking the development to Burton St bridge. Before first use of the development hereby permitted, the proposed access junction as illustrated on drawing numbered 100115/001 (to include a footway along the western side of the internal access road to the Railway Station) shall be completed.
5. For the period of the construction of the development within the site, vehicle wheel cleansing facilities shall be provided within the site and all vehicles exiting the site shall have all tyres and wheels cleaned, as may be necessary, before entering the Highway.
6. No part of the development (as approved) shall be occupied until details of a Green Commuter Plan containing a travel to work, car use and car parking management strategy for the site as a whole has been submitted to and agreed in writing by the Local Planning Authority. Details of the proposals shall include measures to secure increases in car sharing, public transport use, cycling and walking, proposals for car parking restrictions and controls and details of on-site facilities to promote alternative modes of travel to the site. The plan shall comprise proposals to reduce car dependence and vehicle emissions and to establish and encourage the use of alternative transport modes for journeys to and from work and during working hours. The plan shall make provision for relevant surveys, review and monitoring mechanisms, targets, timescales, phasing programmes and on-site management responsibilities. It shall be implemented and subject to regular review in accordance with the above approved details.
7. Before the development hereby permitted is first used, cycle parking provision shall be provided in accordance with a scheme which shall be first submitted to and approved by the Local Planning Authority and once provided shall be maintained and kept available for use in perpetuity.
8. If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected at the access to the proposed Office car park, they shall be set back a minimum distance of 10.0 metres behind the Highway boundary and shall be hung so as to open inwards only.
9. During the period of construction, all traffic to and from the site shall use the route agreed with Local Planning Authority (LPA) on 15th July 2010, ('Workplace Transport Management Plan' Rev B) unless otherwise agreed in writing with the LPA.
10. For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.
11. Before first use of the development hereby permitted, visibility splays of 4.5 metres by 90 metres shall be provided at the junction of the access with Burton Street as shown on bsp consulting drawing numbered 10015/001. These shall be in accordance with the standards contained in the current County Council design guide and shall be so maintained in perpetuity. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.

PEDESTRIANS

12. Before first use of the development hereby permitted, the applicants shall construct and make available for use by the public, the proposed pelican pedestrian crossing on Burton Street north of its junction with Mill Street, as illustrated on BSP consulting drawing numbered 100115/004 in Appendix D of the Transport Assessment Addendum Report
13. **Within 6 months of a bus service being registered to serve the offices and station, a bus stop shall be provided outside new offices (including provision for a shelter, raised kerbs and timetable). Details of the provision and its location shall be submitted to and agreed by the Local Planning Authority prior to its installation.**

DRAINAGE

14. The drainage provision carried out on the site shall be in full accordance with the details approved by the Local Planning Authority (LPA) on 7th September 2010, unless otherwise agreed in writing with the LPA.

CONTAMINATION

15. The development on the site shall be in full accordance with the details approved by the Local Planning Authority (LPA) on 29th July and 19th August 2010 for the investigation of contaminants and their subsequent treatment.
16. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

PROTECTION OF WATERCOURSE

17. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
18. No infiltration of surface water drainage into land is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.
19. The foul drainage provision carried out on the site shall be in full accordance with the details approved by the Local Planning Authority (LPA) on 7th September 2010, unless otherwise agreed in writing with the LPA.

ECOLOGY

20. Site clearance operations that involve the destruction and removal of trees on site shall not be undertaken during the months of March and August inclusive, unless otherwise approved in writing by the Local Planning Authority.

ARCHAEOLOGY

21. The development shall be undertaken in accordance with the approved written scheme of archaeological investigation and in accordance with the terms set out in the approval letter from the Local Planning Authority dated 5th August 2010. No variation shall take place without the prior consent of the Local Planning Authority.
22. The applicant shall ensure the completion of the necessary programme of archaeological investigation in accordance with the terms set out in the approval letter from the Local Planning Authority dated 5th August 2010. The report and archive shall be prepared and deposited no later than six months after the commencement of fieldwork.

LIGHTING

23. The external lighting of the proposed building, access, public footpaths and cycleways shall be implemented in full accordance with the details approved in writing by the Local Planning Authority on 17th June 2010.

PUBLIC FOOTPATH

23. During the period of construction there should be no obstruction by building materials or vehicles of the public footpath and the public footpath shall remain safe to use at all times.

BOUNDARY TREATMENT

24. The boundary treatment shall be completed on site prior to the first occupation of the proposed new office building carried out on the site shall be in full accordance with the details approved by the Local Planning Authority (LPA) on 17th June 2010, (plan no. 0140 Revision F submitted to the Local Planning Authority on 2nd July 2010) unless otherwise agreed in writing with the LPA.

DESIGN

25. The development shall be carried out in accordance with the plant housing features on the roof of the building approved the Local Planning Authority (LPA) on 13th January 2011, unless otherwise agreed in writing with the LPA.
26. The use of the internal space shall in accordance with such details approved by the Local planning authority on 17th June 2010 unless subsequently agreed in writing by the Local Planning Authority.

SPECIFICATION OF PLANS

27. With the exception of the requirements of the above conditions, the proposed development shall be carried out strictly in accordance with the plans submitted and the amended plans deposited with the Local Planning Authority as follows:
 - 09029-103-G plant roof level (11.1.2010)
 - 09029-103-B elevations sheet 1 (11.1.2010)
 - 09029-103-B elevations sheet 2 (11.1.2010)

Officer to contact: **Mr J Worley**