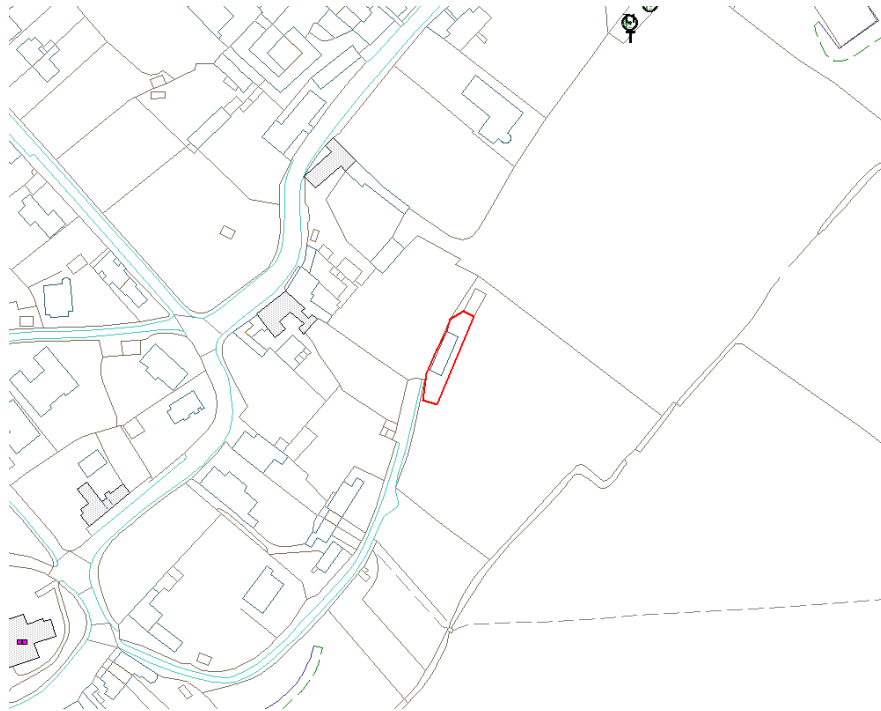


Reference: 12/00585/FUL
Date submitted: 20.08.2012
Applicant: Mr Harvey
Location: Land to the Rear of The Homestead, 40 Main Street, Hoby, LE14 3DT
Proposal: Proposed Material Change of Use of Building From Agriculture to Uses Ancillary with 40 Main Street, Hoby (Home Office)



Introduction:-

This application seeks approval for the material change of use of buildings from a permitted use for agriculture to office use ancillary to the use of the applicant's dwelling, The Homestead, 40 Main Street, Hoby. The proposed use of the building is for the sole use by the applicant in connection with his existing business interests, replacing activity that is currently carried out from within The Homestead.

The building that is the subject of this application lies on the edge of a field to the rear of the curtilage of the adjacent dwellinghouse at the end of Back Lane, an unmade road. This building has previously been the subject of an enforcement investigation with regards to the proposed use. Since planning permission was granted for the rebuilding of the building in 2009, the building has remained unused.

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

- **Impact upon the character of the area.**
- **Impact upon Highway safety.**
- **Impact upon residential amenities.**

The application is to be considered by the Development Committee due to the number of representations received.

Relevant History:-

09/00445/FUL - Reconstruction of a single storey agricultural building. – Approved (condition limiting use to agricultural only)

10/00162/FUL – Amendment to Approved Application 09/00445/FUL single storage agricultural building. – Approved (condition limiting use to agricultural only)

Planning Policies:-

Adopted Melton Local Plan

Policy OS2 – planning permission will not be granted for development outside the town and village envelopes except for limited small scale development for employment, recreation and tourism which is not significantly detrimental to the appearance and rural character of the open countryside.

Policy C6 provides that the re-use and adaptation of rural buildings for a commercial, industrial or recreational use is acceptable providing the following terms are addressed:

- a) The building is of substantial, sound and permanent construction and if it is in the open countryside, is proposed for reuse and adaptation without major or complete reconstruction;
- b) the form, bulk and general design of the building is in keeping with its surroundings;
- c) Any conversion work respects local building styles and materials;
- d) The traffic to be generated by the new use can be safely accommodated by the site access and the local road system;
- e) The proposed use will not harm the local environment through the creation of noise, dust, smoke, fumes, grit, vibration or any form of water, soil or air pollution;
- f) There is sufficient room in the curtilage of the building to park the vehicles of those who will work or visit there and also to service its use, all without detriment to the visual amenity of the countryside;
- g) No commercial, industrial or recreational activity or storage of raw materials or finished goods is to take place outside the building;
- h) No new fences, walls or other structures associated with the use of the building or the definition of its curtilage or any sub-division of it will be erected if they would harm the visual amenity of the countryside.

The Melton LDF Core Strategy (Publication) Development Plan document:

There are a number of policy objectives contained within the Core Strategy which apply to this proposal and will attract some weight given its close reflection to the NPPF. In particular, the Core Strategy also allows for the reuse of rural buildings for small-scale business activities compatible with countryside locations.

East Midlands Regional Plan

Policy 12 states that employment and housing development should be located within and adjoining settlements. Such development should be in scale with the size of those settlements, in locations that respect environmental constraints and the surrounding countryside, and where there are good public transport linkages.

The National Planning Policy Framework (NPPF) was published 27th March and replaced the previous collection of PPS. It introduces a ‘presumption in favour of sustainable development’ meaning:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

The NPPF offers direction on the relative weight of the content in comparison to existing Local Plan policy and advises that whilst the NPPF does not automatically render older policies obsolete, where they are in conflict, the NPPF should prevail. It also offers advice on the weight to be given to ‘emerging’ policy (i.e the LDF) depending on its stage of preparation, extent of unresolved (disputed) issues and compatibility with the NPPF.

The NPPF introduces three dimensions to the term Sustainable Development: Economic, Social and Environmental: It also establishes 12 core planning principles against which proposals should be judged. Relevant to this application are those to:

- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives
- support the transition to a low carbon future by encouraging the development of renewable energy
- recognising the intrinsic beauty of the countryside
- contribute to conserving and enhancing the natural environment

On Specific issues relevant to this application it advises:

Prosperous Rural Economy

- Support the sustainable growth and expansion of all types of business and enterprise in rural areas, both new buildings and conversions.

The NPPF offers direction on the relative weight of the content in comparison to existing Local Plan policy and advises that whilst the NPPF does not automatically render older policies obsolete, where they are in conflict the NPPF should prevail. It also offers advice on the weight to be given to ‘emerging’ policy (i.e the LDF) depending on its stage of preparation, extent of unresolved (disputed) issues and compatibility with the NPPF.

The policies in question are Local Plan Policy OS2 and C6 and are considered to be consistent with the NPPF in terms of countryside protection, re-use of rural buildings and guiding development to sustainable locations with the best transport linkages and as such retain weight within the terms of paragraph 215.

This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan

should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. (NPPF para. 12)

Consultations:-

Consultation reply	Assessment of Head of Regulatory Services
<p>MBC Conservation Officer – No objection.</p> <p>The principal house is a grade II listed building but the range of outbuildings that are the subject of this application and proposed for change of use are not attached and situated away from the house. In that regard they are not curtilage listed structures.</p> <p>Access to these buildings is proposed to be through the grounds of The Homestead and this would not impact on the setting of the Listed Building, as the access already exists.</p> <p>In that regard provided the appearance and historic integrity of the host buildings remains unaffected I have no concerns regarding the proposed change of use.</p>	<p>The building lies outside of the curtilage of The Homestead and as such is not a listed.</p> <p>The use of the building for office purposes would not have any impact or effect on the appearance or setting of the Homestead.</p> <p>The use, being restricted to the private and personal use of the applicant would not result in an increase in use of the property.</p> <p>It is considered that there would be no adverse impact on the adjacent Listed Building or its setting.</p>
<p>LCC Highways Authority – No objection</p> <p>This is subject to the imposing of a condition restricting the use of the building for the sole personal and private use of occupiers of The Homestead and no business use.</p>	<p>A condition could be placed on a permission that would restrict the use of the building for personal and private use of occupiers of The Homestead and no third party business use. Such a condition would be reasonable and could be enforced.</p> <p>In previous applications the Highway Authority has advised against any use that would increase the traffic using Back Lane. There do not appear to be any changes in circumstances and it is concluded that this concern persists.</p> <p>It is considered that it would be possible to prevent the use of Back Lane for access, both ‘physically’ and through the use of conditions, in favour of the existing main access onto Main Street.</p> <p>There is concern, however, that the access onto Main Street is also substandard in terms of visibility, being on a bend in the road. As the applicant is seeking to use the building as a ‘home office’ for the private and personal use of the applicant, there would be no increase in the use of the access over and above its existing level.</p> <p>Conditions could be applied to prohibit the use of Back Lane to ensure that the impact on highway safety is not detrimentally increased.</p> <p>It is considered that the proposal would not have a detrimental impact on highway safety.</p>

<ul style="list-style-type: none"> ▪ Outside of the curtilage of The Homestead, so should not be considered for home office use. ▪ Access for emergency vehicles ▪ A condition preventing rental or leasing to third parties will not prevent this happening ▪ Not aware that the applicant currently uses The Homestead as a home office. Understand that the applicant’s recycling business is run from offices at Wymeswold airfield and his agricultural interests are managed by agents. ▪ The recycling business is substantial and so cannot see how the statement “there will be no increase in the number of residents or visitors at the property and so traffic movements associated with the proposed development will not increase above those of the current Homestead dwelling” can be sustained. If this application is approved there will inevitably be such an increase. ▪ Hoby is classified in the Melton Local Plan as a Category 3 village and is deemed unsuitable for new employment development. 	<p>would not cause any pollution or nuisance to the local environment.</p> <p>f) there is sufficient parking provision and that does not cause visual harm. <i>The applicant advises that the parking of vehicles would be within the existing parking areas associated with the host property.</i></p> <p>g) no outside storage should take place. <i>The proposed use does not require storage of goods or materials outside of the building.</i></p> <p>h) no unnecessary subdivision of the property occurs. <i>There are no works proposed to the building.</i></p> <p>The fact that the building lies outside of the curtilage of The Homestead leads to the requirement for the change of use. Had the building been within the curtilage of the host property, such a proposed use would have been ancillary and as such permission would not have been required. Policy C6 (addressed above) relates directly to buildings in such locations.</p> <p>Access for emergency vehicles would be a consideration under the Building Regulations, a necessity for such a proposed change of use.</p> <p>Should it be deemed necessary, a condition placed on a planning permission limiting the use to private and personal use by the applicant would restrict the use. Should the applicant fail to comply with such a condition and this gave rise to unacceptable impacts, enforcement action could be taken to remedy any harmful effects arising from such a breach.</p> <p>The application should be considered on the proposed development and not on whether this would be a relocation of an existing use from elsewhere onto the site. The application proposes to use the building for home-office use as a replacement for activity that current is carried out from within The Homestead.</p> <p>The applicant has stated that the use of the building will be for a ‘home office’. As such they have stated that there will be no increase in visitors to the property. It is not proposed to relocate the recycling business from Wymeswold into the building.</p> <p>The Melton Local Plan does not categorise villages in the manner described. This appears to be a reference to the LDF Core Strategy (Preferred Options) dating from 2008, which itself has been replaced by the 2012 Publication version.</p> <p>The site lies outside the village envelope and as such</p>
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<ul style="list-style-type: none"> ▪ Back Lane is single track and not maintained to usual highways standards and is not suitable for increased vehicle movements. 	<p>‘countryside’ policies apply. These comprise C6 in the adopted Local Plan (see above) and CS9 in the Core Strategy Publication version, which both support the re-use of rural buildings for employment uses.</p> <p>Additionally, the NPPF (para. 28) states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings.</p> <p>There is no proposal to access the building along Back Lane. The applicant has stated that access to the building will be through the grounds of the adjacent dwellinghouse. Nevertheless, a condition could be placed on the permission restricting the use of the lane in respect of the use of this building. Any such condition would have no bearing of any use of the land for access to the adjacent property and the surrounding land.</p>
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Representations:

A site notice was posted and the immediate neighbouring property consulted. As a result 6 letters of representation from 6 households have also been received. The issues raised through representation are addressed below.

Representation	Assessment of Head of Regulatory Services
<p>Impact on Character of Area</p> <ul style="list-style-type: none"> ▪ The proposed use would damage the character of the conservation village and impair its exceptional visual appeal. ▪ This application abandons the pretence that the character and appearance of the area remains agricultural in nature, the reason for a previous condition attached to 09/00455/FUL. 	<p>The development relates to an existing building, recently constructed but is currently unused. This application seeks for the use of the building as a home office, being linked to The Homestead on an ancillary basis. The applicant proposes no alterations to the appearance of the building, nor an increase in the numbers of people using the site over those already resident at the property. As such there is considered to be little if any impact on the character and amenities of the area.</p> <p>There are no changes being proposed or envisaged to the building. The use of the building as a ‘home office’ would be generally low key and there would be no noticeable indication of use that would have any detrimental impact on the character of the area. A particular concern would be an increase in the use of Back Lane for access and egress to the site by visitors, but this is expressly denied by the applicant and it is considered can be adequately controlled (see above).</p>

<p>Impact upon Highway Safety</p> <ul style="list-style-type: none"> ▪ Despite the assurances given, there will be an increase in vehicles using Back lane. ▪ Dangerous to users of Back Lane including pedestrians using the footpath along the lane. ▪ Whilst the applicant mentions no access along Back Lane, it does not mention egress. ▪ Unsuitable access of Main Street on a dangerous bend 	<p>The use of Back Lane as access to the building has been addressed above. The applicant has stated that there is no proposed use of Back Lane in connection with the 'home office' use applied for. At present the permitted agricultural use of the building has no restrictions on access and could be serviced vis Back Lane</p> <p>Nevertheless, concern remains that vehicles may access the building along the lane and as such a condition would control this.</p> <p>However, it should be noted that any such condition would be limited to the development covered by this application and <u>would not</u> restrict any legal right of access that the applicant may have along the lane for access to their wider land or the dwellinghouse.</p> <p>The applicant advises that the use of the building would not necessitate an increase in the number of visitors to the property as it would relocate activities already present at the site. As such, there would be no additional use of the access over that of the existing dwelling.</p>
<p>Other Matters</p> <ul style="list-style-type: none"> ▪ No proof of need, adjacent property already has ample facilities / A home office should be in or attached to the house ▪ No way that the authorities can enforce the nil use of Back Lane ▪ Not a working farm, no need to use Back Lane ▪ Impact on the private enjoyment of neighbouring land ▪ Staff will use Back Lane 	<p>Whilst such a use is often found incorporated within an existing dwellinghouse, this is not a ground under which this application could be refused. The 'absence of need' is not considered to be a ground on which permission should be refused: such determinations are required to demonstrate that harm 'significant and demonstrably' outweighs any benefits (NPPF para. 14).</p> <p>As rehearsed above, conditions can restrict access to the building, but not to the wider land and property.</p> <p>This is not a consideration considered relevant to this application..</p> <p>The building is situated in a prominent location that overlooks the fields and valley to the South and East. Whilst there are areas of land to the south that may form part of the properties on the northern side of Back Lane, the closest is separated from the building by approximately 50 metres. The land to which the respondent refers may form part of their wider property, but the impact on their privacy would be limited as they have a private garden within the curtilage of their property.</p> <p>There is no proposal to employ people at the site, nor to use Back Lane in any way in connection with the use</p>

<ul style="list-style-type: none"> ▪ Possible future commercial use/an obvious intention to put the building to a commercial use. ▪ Why are car parking spaces provided if this is a home office? ▪ The offices are very large compared with BCO guidelines (British Council for Offices) ▪ Linked to applicant's business in Burton/Wymeswold / no justification for an office several miles away and in a prominent location ▪ Conditions would not prevent an increase in the number of staff working from the site. ▪ Building is in a dominant location. ▪ Applicant took a chance in building and fitting out the building and now seeks to present the Local Planning Authority with a fait accompli. 	<p>of the building.</p> <p>The application cannot address any future intentions, solely those covered by the application. Should permission be given for the private and personal use of this building, a full commercial office use of the building would require a further application on which the planning merits would need to be considered.</p> <p>The applicant states in their application form that there are two pre-existing car parking spaces within the application site. They also state in the statement accompanying the application that parking or vehicles is within parking areas.</p> <p>This is not a planning consideration.</p> <p>Whilst this may be the case, the office would be for the private and personal use of the applicant. Where the business that they administer that business does not have a bearing on this application.</p> <p>The applicant is not proposing to employ staff at the site. Should staff be employed to work at the site in contravention with any such appropriately worded condition, the matter could then be considered for enforcement action.</p> <p>The building is located in a prominent position at the top of a slope overlooking the valley. There are no external changes proposed as part of the submission and as such, there would be no additional impact on the character and visual amenities of the area.</p> <p>The application must be considered on its own planning merits. The concern with the application being retrospective in nature has no bearing on the planning merits it presents. It is understood how the construction of the building with the appearance of being fitted out for office use appears to be in breach of the planning permission (for agricultural buildings) but this was carefully considered and it was determined that because no actual use commenced, it could not be deemed to be in breach.</p> <p>The policies allowing re-use of buildings in rural locations do not specifically refer to agricultural buildings nor does it require them to have been formerly used and become redundant or surplus, simply to 'rural buildings'. The frustration expressed at the buildings never being used for their stated purpose of agricultural is understood, but it is considered that this does not render the proposed use contrary to the policies. Nor does there appear to any benefit to any</p>
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	<p>interest in developing a position whereby agricultural usage has to be activated, then abandoned, simply to facilitate a scenario where a change of use to office purposes becomes legitimate in policy terms.</p>
<p>Planning Policy and Guidance</p> <ul style="list-style-type: none"> ▪ Outside the Village Envelope ▪ Conflicts with Policies OS2 and C6 of the Melton Local Plan ▪ Category 3 Village – unsuitable for new employment development 	<p>It is considered that the proposal accords with the provisions of OS2 which being of a small scale with limited, if not negligible impact on the character of the area. The applicant does not propose any changes to the appearance of the building nor such an increase in its use that it would have an impact on the area.</p> <p>Policy C6 allows the conversion of buildings to small scale business uses that assimilate within the locality of the buildings and do not have adverse impacts amenity of the open countryside. It is considered that the applicant’s business activities from the proposal would not have any adverse impact on the open countryside. The use would be limited to the sole use by the applicant and there is no proposal to employ staff that would require an increase in the number of vehicles visiting the property. Externally, there would be no changes to the building, nor would there be any requirement for external storage.</p> <p>The policy framework (NPPF, existing Local Plan and emerging LDF policies) are addressed above. The proposal is considered to comply with the policies at all levels.</p> <p>It is considered that the proposed office use being limited to the private and personal use of the applicant is of such a small scale that it will not have a detrimental impact on the character and amenities of the open countryside location, nor will it have any impact in respect of an increase in traffic or pollution accords with the provisions of policies OS2 and C6 of the Melton Local Plan.</p>

Conclusion

This application proposes the material change of use of a building from agriculture to an ancillary office. The proposed development does not include any external changes, comprising only a change of use to a use for the private and personal office of the applicant. The concerns over the use of Back Lane and the impact that this could have on the safety of the other users of the lane have been overcome with a proposal that any vehicle access to the site would be taken through the adjacent host dwelling, which could be controlled by a condition. This would also mark an improvement over the current position where there are no such access restrictions. The proposal is limited to the use by the applicant and as such, conditions could be applied to ensure that there would be no increase in use of the building or access to the site by its use by other third party users.

The proposal is considered to accord with the provisions of the NPPF and the policies of the Melton Local Plan and those within the emerging Core Strategy being a small scale economic development in the open countryside, closely linked to a host property which results in no impact to the character or amenities of the countryside.

RECOMMENDATION:- Permit, subject to the following conditions;

1. The development shall be begun before the expiration of three years from the date of this permission.
2. Vehicles visiting the site shall do so solely through the existing entrance to The Homestead off Main Street. There shall be no vehicle access to or egress from the site for any purpose utilising Back Lane. Details of the means by which this will be ensured shall be submitted to and approved by the Local Planning Authority prior to the first occupation of the building for the use hereby permitted, and such measures as approved shall be maintained on a permanent basis thereafter.
3. The use of the building hereby permitted shall be for the sole private and personal use of the occupants of The Homestead and for no other purpose, including any within Class B1 (Business) of the Town and Country Planning (Use Classes) Order 1987.
4. No person other than the residents of The Homestead is permitted to use the building, including any business associates and employees of the applicant.
5. The use of the building as a 'home office' shall be strictly ancillary to the main use of the adjacent property known as The Homestead, Main Street, Hoby and shall not be sold, lease or used separately from that property.

The reasons for the conditions are:-

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. In the interests of highway safety.
3. In the interests of limiting the scale of the development to a low level and to ensure that there is no increase in the numbers of vehicles accessing the site off Main Street in the interests of highway safety.
4. In the interests of limiting the scale of the development to a low level and to ensure that there is no increase in the numbers of vehicles accessing the site off Main Street in the interests of highway safety.
5. In the interests of limiting the scale of the development to a low level and to ensure that there is no increase in the numbers of vehicles accessing the site off Main Street in the interests of highway safety.

Officer to contact: **Mr Andrew Dudley**

4 October 2012