



MEETING OF THE
PLANNING COMMITTEE

Civic Suite, Parkside

4 July 2013

PRESENT:

P.M. Chandler (Chair), P. Baguley, G Botterill
G Bush, P. Cumbers, A Freer-Jones, E. Holmes, J Illingworth
T Moncrieff, J Simpson, J Wyatt,

Observing Councillors: Cllrs J Moulding and J Orson

Head of Regulatory Services, Solicitors to the Council (VW and VJ)
Applications and Advice Manager (JW), Planning Officer (DK)
Planning Policy Officer (KM), Administrative Assistant (JB)

D14. APOLOGIES FOR ABSENCE

None

D15. MINUTES

Approval of the Minutes of the Meeting held on 13 June 2013 was proposed by Cllr Simpson and seconded by Cllr Moncrieff. The committee voted in agreement. It was unanimously agreed that the Chair signed them as a true record.

D16. DECLARATIONS OF INTEREST

13/00212/FUL & 13/00213/LBC – Cllr Simpson declared a personal and pecuniary interest stating that she knew personally one or more of the Trustees submitting the application; she intended to withdraw from the meeting while the applications were heard.

The Chair stated to the Public that she was aware that some people may have

arrived expecting to hear application 13/00175/OUT, but this was not on the agenda and would not be heard that evening.

D17. SCHEDULE OF APPLICATIONS

- (1) **Reference:** 12/00717/OUT
Applicant: Mr Shaun Hazlewood
Location: Mill House Nurseries, Leicester Road, Melton Mowbray
Proposal: Residential development comprising circa 50 dwellings together with associated infrastructure, open space, landscaping, storm water balancing pond, pumping station and diversion of public right of way E13a.

- (a) The Applications and Advice Manager stated that:

This application seeks outline consent for a residential development for up to 50 dwellings. The application is in outline with only the proposed access being applied for at this time.

There are no updates to reports.

This application presents a balance of competing objectives which the committee will need to consider when determining this application.

The application relates to a residential development within the town envelope for Melton. The proposal would include affordable housing provision which is one of the Councils key priorities. Therefore this application is considered to present a vehicle for the delivery of affordable housing and this is considered a material consideration of significant weight in favour of the application.

The Borough is also deficient in terms of housing land supply more generally and similarly this would be addressed by the application, in a location that is considered to be sustainable in terms of access to services and facilities and with good transport links.

The development would sit 1.5km from the town centre and a judgement is required as to the sustainability of the site. The site is within the town envelope, 500 metre from the built up area and it is proposed to improve the footway to form a shared pedestrian/cycle links. There is also an employment site in close proximity and it is considered that the proposal will assist in providing a mix of development.

On the negative side concerns over loss of the Mill Race Feature have been expressed by English Heritage and the impact on a Scheduled Monument to the west of the site. On balance it is considered that as the Mill Race is not a designated asset and has already been built over and that the SM could be

considered to already be compromised by the current use of the site. This issue of heritage assets needs to be balanced against the public benefits of redevelopment of the site.

On the balance of the issues, there are significant public benefits accruing from the proposal when assessed as required under the guidance in the NPPF in terms of housing supply and affordable housing in particular. The balancing issues – redevelopment of a brown-field site within the town envelope and impact upon noise, heritage and flood risk – are considered to be of limited harm, particularly because they can be controlled by conditions to limit their adversity (for example, raising floor levels, stipulating noise conditions and landscaping).

In applying the ‘tests’ required by the NPPF that permission should be granted unless the impacts would “significantly and demonstrably” outweigh the benefits; it is considered that in this instance the benefits outweigh any adverse impacts and the application is recommended for approval.

(b) Mr May, agent for the applicant, was invited to speak and stated that:

- The agents agree with the officer’s clear and comprehensive report
- He welcomes questions that may aid the Members understanding of the application.

Cllr Illingworth joined the meeting at 6.07pm

Members asked the agent questions regarding static water on the site, flooding and the Mill Race. Mr May replied that the Environment Agency have been consulted and raised no objections, he noted that the Mill Race was filled in 1967 and was subsequently built upon; he went on to say that options for drainage and prevention of flooding are being discussed including maintenance of watercourses and a pumping station on site.

(c) Cllr Moulding, Ward Councillor for the Ward, was invited to speak and stated that:

- The application had his full support and he hoped it would be approved as it offered much needed affordable housing and is proposed on a brown-field site
- Issues regarding the proximity of the railway (and railway crossing) have been resolved in other parts of Melton and Network Rail have not objected
- The Highways Authority have also not objected and views from the exit point are good, with traffic slowing down to accommodate the corners nearby
- The Environment Agency has not objected and confirms there will be not increase in flooding caused by the development
- Urged the Members to consider the expert opinion in the report.

The Applications and Advice Manager clarified points for the Members: the position of the site in relation to the latest flood mapping available shows the site to be out-with of the danger area, drainage schemes will be dealt with at detailed application stage and conditions have been suggested to protect the area from flooding, the Mill Race was filled in 1967 and the County Archaeology Department have asked for a complete record of any excavations that unearth it, the Flood Risk Assessment suggested options for waste removal and conditions for this have been included in the report and lastly, Network Rail have agreed to upgrade the railway crossing adjacent to the site at their own expense.

The Chair raised concerns regarding the railway crossing and stated that she would like to see improvements made before occupation of the site. The Application and Advice Manager replied that a s106 agreement cannot be placed on the applicants regarding the works as the crossing is not part of their site nor in their ownership, however a condition can be added to stop occupation prior to the works.

Cllr Cumbers stated that the proposal was well placed, in the Town Envelope and near to employment opportunities. She had concerns regarding flooding, highways and the proximity to the railway but agreed that expert advice should be taken into account. She asked that a gateway on the applicant's land should be added to prevent children wandering towards the railway line. She **proposed approval of the application**.

Cllr Simpson **seconded the proposal to approve the application** stating that the officer had produced an excellent report. She agreed that Network Rail should be encouraged to undertake the works to the railway crossing as soon as possible.

The Applications and Advice Manager noted that gates crossing a public Right of Way would have to be approved by the County Council. She went on to say that Network Rail cannot be influenced but a condition to limit occupation till after the upgrade of the railway crossing would be added.

Cllr Moncrieff agreed with other Members regarding the upgrading of the railway crossing and the proposal to increase housing supply, he was also glad to place housing to the west of the town as a recent Planning Inspector had suggested.

Cllr Botterill asked if a nuisance might be caused by the proximity to the sewerage works.

Cllr Moncrieff stated that the prevailing wind would not bring smells towards the site and that historical issues of smell from the works had largely been remedied.

Cllr Holmes stated that she still was concerned about flooding, the access to the main road and the proximity of the railway and river. She stated that the speed of the

main road should be reduced further to 30mph and suggested deferral of the application till issues have been resolved.

The Chair stated that she had talked with the Highways Officer to discuss the access and was told that the visibility splays were adequate for a 40mph road.

Cllr Bush stated that in his Ward there is a railway line and a river and that although children play near both, to his knowledge there have not been any incidents in the last 50years. He went on to say that most traffic accidents happen further out of town and that that particular access does not have issues and the visibility is good.

Cllr Freer-Jones asked about the 4 previous refusals for development on that site; if they had been refused due to traffic concerns what had changed? She also asked for the distinction between brown-field and green-field policy when the site was within the Town Envelope.

The Applications and Advice Manager replied that an Inspector had disagreed with the highway reasons for refusal previously and that should be taken into consideration here. She went on to say that policies had changed regarding highway safety measures, the NPPF gave a change of focus and the local speed limit had been reduced. Regarding the status of the land, she reminded Members that the NPPF guides Members to develop brown-field land rather than green-field, and that this application benefits both from partly being brown-field and within the Town Envelope.

The Chair asked that the conditions be confirmed.

The Applications and Advice Manager reiterated the conditions for approval, Cllrs Cumbers and Simpson agreed with the conditions.

A vote was taken: 8 in favour, 2 against and 1 abstention. Cllrs Freer-Jones and Holmes wished for their votes against the application be recorded.

DETERMINATION : PERMIT, subject to the completion of a s106 agreement to provide the following, and for the following reasons:

- Contribution for the improvement to Lake Terrace Civic amenity site
 - Contribution for the improvement of Wilton Road Library
 - Sustainable transportation
 - Contributions to the capacity of the police service
 - The provision of affordable housing, including the quantity, tenureship, house type/size and occupation criteria to ensure they are provided to meet identified local needs;
(all in the terms as set out in the report)
-

Reasons:

On the balance of the issues, there are significant public benefits accruing from the proposal when assessed as required under the guidance in the NPPF in terms of housing supply and affordable housing in particular. The balancing issues – redevelopment of a brownfield site within the town envelope and impact upon noise, heritage and flood risk – are considered to be of limited harm, particularly because they can be controlled by conditions to limit their adversity (for example, raising floor levels, stipulating noise conditions and landscaping).

Applying the ‘test’ required by the NPPF that permission should be granted unless the impacts would “significantly and demonstrably” outweigh the benefits; it is considered that permission can be granted.

Cllr Simpson left the meeting at 6.45pm.

Cllr Illingworth, who took no part in the decision, apologised for his late arrival.

- (2) **Reference:** **13/00212/OUT & 13/00213/LBC**
 Applicant: **Hudsons And Stores**
 Location: **The Fox Inn, Leicester Street, Melton Mowbray, LE13 0PP**
 Proposal: **Change of use of Public House to Retail Area, conversion of 1st and 2nd floors into 3 flats and upgrading of 1 existing flat, demolition of rear wing due to structural problems, construction of 6 one bedroom Almshouses and re-modelling of existing yards with landscaped areas.**

- (a) The Applications and Advice Manager stated that:

This application seeks planning and listed building consent for the change of use of a Public House into retail and 4 flats, demolition of the rear wing and construction of 6 one bedroom almshouses. The premises is a Grade II listed building in the town centre and is no longer operating as a public house.

There are no updates to report.

The proposal seeks to convert and partially demolish a Grade II listed building to create ten one bedroom apartments. In order to facilitate the proposal the demolition of the rear wing has been proposed which is stated to have structural defects which render its inclusion to be converted into apartment as uneconomical and not practical to achieve the desired accommodation for less able bodied persons.

English Heritage is not supportive of the demolition and advised that the demolition amounts to ‘substantial harm’ to a designated heritage asset. No evidence has been put forward by the applicants to support the claims that the structure is unsafe and

moving as no monitoring of the movement has been undertaken. Whilst it is acknowledged that the conversion of the former public house would secure the longevity of part of the grade II listed building, the new build element to the rear is not considered to enhance or preserve the setting of the neighbouring Grade II listed buildings. The NPPF is clear, in paragraph 133, that where a proposed development will lead to substantial harm consent should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefit that outweighs that harm.

The application would provide almshouses (including provision of two units for less able bodied), and market apartments. The applicants are a registered charity within the town and proposed that six newly constructed apartments would add to their stock. However, they have stated that exact numbers will differ, depending on cost of the renovations and construction costs. There are uncertainties in regards to the number of units as almshouses, nomination rights, tenure and length of occupation which could affect the 40% provision of affordable housing within the scheme. Not all of the units can be used for less able bodied persons and limits the number available which is considered to weaken the case for substantial public benefit. Ten one bedroom apartments fail to meet the identified local need. Therefore a balancing exercise is required in relation to the harm to the heritage asset and the stated public benefit. In this case there is no requirement for the dwellings to be in this location and there are other sites within the town which could facilitate a development of this nature without the harm to a Listed Building. There is also no mechanism proposed to ensure charitable use and as such nothing to prevent the use of all 10 units as open market housing. Therefore in this instance the benefits are not considered to be substantial public benefits and would not outweigh the substantial harm the demolition would cause and therefore in accordance with the NPPF planning consent is recommended for refused.

(b) Mr Mullen, an objector, was invited to speak and stated that:

- The main concern is one of maintaining access to the rear of their property (the Penman Spicer Community Centre) especially as it is the only level access for disabled persons
- The alterations to the courtyard appear to affect the access arrangements that they have a covenant protecting.

(c) Mr Shouler, speaking as a Trustee and applicant, was invited to speak and stated that:

- The town centre is under economic pressure and the key is to get more people living in it
- The charity have a vision and duty to provide almshouses
- The existing building was poorly built and many changes have already been made
- The rear part of the building is not suitable for conversion therefore wish to

make proper changes to make a useful addition that ensures a future for the site as a whole

- The proposed new part is of a similar footprint to the part proposed for demolition
- There will be a substantial public benefit from the proposals and with the help of MBC the number of almshouses will be increased.

Members asked Mr Shouler about the rights of the objector regarding the access and courtyard.

Mr Shouler replied that they do not have a right to park in the courtyard and have a covenant for access by horse and cart.

Members and the Head of Regulatory Services asked about the number of almshouses proposed.

Mr Shouler said that they can confirm a minimum of 40% but that it may be more depending on the costs incurred onsite.

The Head of Regulatory Services asked how the applicants intended to answer the concerns of English Heritage.

Mr Shouler suggested that many alterations had already taken place and the development would be another stage in the 'evolution' of the building, and that they intend to challenge the position of English Heritage at referral stage.

Members voiced concerns regarding the oldest part of the building and the lack of evidence put forward regarding the state of the existing rear part and its possible reuse.

Mr Shouler confirmed that the oldest part of the building will be kept along with the front section along Leicester Street; he went on to say that there are too many issues in his opinion as a surveyor, for conversion of the rear part of the building.

Members asked what role English Heritage would have with the determination of the application.

The Head of Regulatory Services stated that the Listed Building Consent application, for the demolition of the rear section would be further scrutinised by the government and English Heritage.

The Applications and Advice Manager drew the attention of Members to the paragraphs in the NPPF regarding the presumption in favour of sustainable development and the special circumstances created by heritage assets. She asked Members to consider the balance of the loss of a heritage asset against the public benefit.

Members agreed that there is a shortage of smaller housing units.

Cllr Botterill **proposed approval of the application** 13/00212/OUT stating that it would be better to agree to changes to save the rest of the building. He added that the proposal gives further opportunities for people to live in the town.

Cllr Illingworth **seconded the proposal to approve the application** 13/00212/OUT stating that it had been difficult to weigh up but considering that the rear part of the existing building is not as visible and not providing a benefit to the public it would be better to replace it and provide needed apartments.

A Member stated that she was pleased that the oldest part would be kept but was concerned about the height of the new part of the proposals.

Members raised concerns regarding the loss of a heritage asset and that not all avenues for its reuse had been exhausted. The Cllrs agreed that too many heritage assets had already been lost in the town and that the public had been concerned at this, but that in order to save the frontage a compromise might have to be made. A Member also noted that 1 and 2 bedroomed mixed accommodation was needed rather than all 1 bedroomed. Members asked if the number of almshouse could be conditioned.

The Applications and Advice Manager confirmed that officers were not convinced that all options for reuse of the existing building had been considered and that the building had not been on the market very long in order to allow further opportunity for others to put forward proposals for its reuse. The Head of Regulatory Services agreed that a condition regarding the number of almshouses should be added.

The Applications and Advice Manager clarified the requirements and differences between a 'OUT and 'LBC' application.

A Member asked if the applicants were willing to enter into a s106 agreement.

The Applications and Advice Manager confirmed the applicants were now willing to do this.

The Head of Regulatory Services reiterated the conditions for approval including the reuse of materials where practical, Cllrs Botterill and Illingworth agreed with the conditions.

A Member asked for clarification on the issues raised by the objecting speaker.

The Applications and Advice Manager noted that access issues would be a civil matter between the applicants and Penman Spicer Community Centre as the access would not be restricted as part of the proposal before the Members.

A vote was taken on **13/00212/OUT**: 7 in favour and 3 against. Cllrs Baguley, Moncrieff and Cumbers wished for their votes against to be recorded.

DETERMINATION: PERMIT, subject to the completion of a s106 agreement securing the following:

- **Payment of the contribution towards waste infrastructure in the town**
- **That 6 of the residential units are dedicated to almshouses use**

And for the following reasons:

The proposed development would facilitate the provision of 6 almshouses within a development of housing and which would secure the longer term future of the principal elevation of the building. In the opinion of the LPA this provision constitutes substantial public benefit which is sufficient to outweigh the substantial harm which would result from the demolition of the rear wing, and as such complies with the provisions of the NPPF (paragraph 133).

Cllr Wyatt **proposed approval** of 13/00213/LBC.

Cllr Holmes **seconded the approval** of 13/00213/LBC.

A vote was taken on **13/00213/LBC**: 6 in favour, 3 against and 1 abstention. Cllrs Baguley, Moncrieff and Cumbers wished for their votes against to be recorded.

DETERMINATION: PERMIT, subject to referral to the Secretary of State under the Arrangements for Handling Heritage Applications - Notification to the Secretary of State (England) Direction 2009 for the following reasons:

The proposed development would facilitate the provision of 6 almshouses within a development of housing and which would secure the longer term future of the principal elevation of the building. In the opinion of the LPA this provision constitutes substantial public benefit which is sufficient to outweigh the substantial harm which would result from the demolition of the rear wing, and as such complies with the provisions of the NPPF (paragraph 133).

Cllr Simpson returned to the meeting.

- (3) **Reference:** 13/00300/COU
 Applicant: Mr M Mitchell
 Location: Glebe Farm, 21 Nether End, Great Dalby, Le14 2EY
 Proposal: Change of use of agricultural land to form garden area (applies to unit 4 and the squaring off of the existing residential boundary to provide amenity space to consented unit 4).

(a) The Applications and Advice Manager stated that:

This application seeks planning permission for the change of use of part of a paddock to be used for amenity space for unit 4, on a previously approved residential scheme.

There are no updates to the report.

The main issue with regards to this application is that the proposal does not comply with the development plan. The land to be included as amenity space for the unit is in the designated open countryside and as such the change of use would not comply with Policy OS2. However, in the case of this application the change of use only relates to a small parcel of land, relates to the other surrounding garden/residential area and would amount to the squaring off of the site. The proposal would not have an adverse impact on the surrounding properties and is not considered to encroach into the open countryside. The application is considered acceptable and is recommended for approval.

Cllr Simpson, Ward Councillor for the area agreed with report and **proposed approval of the application** as per the report.

Cllr Baguley **seconded the proposal to approve the application.**

A Member asked why the area had not been part of the previously approved application.

The Applications and Advice Manager suggested that the applicants had not wanted to apply to use an area outside of the Village Envelope.

Members agreed that it seemed sensible to square off the curtilage as proposed.

A vote was taken: 10 in favour and 1 abstention.

DETERMINATION: PERMIT, for the following reasons:

The change of use of part of the paddock into garden area in the open countryside does not comply with Policy OS2 of the Adopted Melton Local Plan being located outside the village envelope. However, although the proposal represents a departure from the Local Plan the proposal is considered to relate well to the existing built form and does not represent a further encroach into the open countryside due to the previous use as enclosed paddock land. It is considered that the change of use would not have a detrimental impact on the character and appearance of the open countryside and would not adversely affect the residential amenities of neighbouring dwellings. The NPPF seeks to promote sustainable development, ensuring development relates well to the natural and historic environment whilst promoting good design. It is considered that the proposal will not detract from

these objectives.

- (4) **Reference: 13/00279/FUL**
 Applicant: Mrs P Posnett
 Location: 4 Melton Road Ab Kettleby
 Proposal: Remove existing hedge and replace with concrete post and feather board fence on front garden adjoining road.

(a) The Applications and Advice Manager stated that:

This application seeks approval of a replacement fence to the front boundary of No. 4 Melton Road. The application has been reported to committee as the applicant is an elected member of the Council. There are no updates to report and the application is recommended for approval as set out report.

(b) Cllr Orson, Ward Councillor for the area, was invited to speak and stated that:

- Although it is disappointing to lose the hedge he agreed with the officers report.

Cllr Baguley agreed with Cllr Orson and **proposed approval of the application.**

Cllr Wyatt **seconded the proposal to approve the application.**

On being put to the vote the application was approved unanimously.

Cllr Orson left the meeting.

DETERMINATION: PERMIT, for the following reasons:

The application site lies within the village envelope of Ab Kettleby and thus benefits from a presumption in favour of development under saved policies OS1 and BE1. The proposal is acceptable in terms of its design and appearance and would not adversely impact on the character and appearance of the area, the residential amenities of neighbouring properties or highway safety.

- (5) **Reference: 13/00351/TCA**
 Applicant: Mr J Orson
 Location: Parsonage House, 13 Paradise Lane, Old Dalby
 Proposal: Fell one Yew tree.

(a) The Applications and Advice Manager stated that:

This application relates to a notification of removal of one yew tree. The application has been submitted by a Councillor. It is the councils role to consider whether the tree is worthy of a preservation order. The Local Authority cannot refuse consent nor can they grant consent subject to conditions.

Cllr Holmes **proposed to approve the felling of the Yew tree** stating that they were poisonous.

Cllr Wyatt **seconded the proposal to remove the Yew tree.**

A Member suggested that the tree could be used for medical purposes.

The Applications and Advice Manager stated that there are companies that do this, that their details would be forwarded to the applicant and that the Arborcultural Report recommended that it be removed out with of the bird breeding season.

A vote was taken: 10 in favour and 1 abstention.

DETERMINATION: PERMIT, for the following reasons:

The Yew tree is not considered to merit protection by means of a Tree Preservation Order and the removal of this tree is acceptable.

D18. URGENT BUSINESS

Following a request from a member to reconsider whether Monday mornings were the most suitable for site visits, it was agreed that whilst attendances remained good no change should be made.

The Chairman reminded members of site visit protocol, asking that they keep together and do not engage in conversations with applicants/objectors.

The meeting commenced at 6.00 p.m. and closed at 7.55pm.