

**Committee Date: 12th August 2010**

**Reference:** 10/00190/EXT  
**Date Submitted:** 16.03.2010  
**Applicant:** W G Herbert Holdings Limited  
**Location:** Land West Of Bowling Green, Leicester Road, Melton Mowbray  
**Proposal:** Development to provide buildings for B1 use within a business park setting.

**Introduction:-**

This application seeks to extend the life of the unimplemented but extant outline planning permission – 06/01012/OUT – which was approved on 17 October 2007.

The outline permission to be renewed, relates to the erection of B1 (Offices) set within a “Business Park” setting, on the land to the West of Bowling Green, Leicester Road, Melton Mowbray, to the rear of the Melton Mowbray Building Society Offices. This 2.2ha site is currently an open paddock area, roughly triangular in shape and is situated between Leicester Road and the railway line and is served by the existing road that accesses the M.M.B.S and the Baptist Church, and the turning head for that road extends in to the site. The outline permission related to the ‘principle’ of development and the means of access in to the site from the public highway, with all other matters being reserved for future consideration.

The applicant, in support of the current proposal to renew the outline permission, has submitted a comprehensive ‘package’ of documents as follows:-

- A design and Access statement – which indicates that the site would be developed for a high quality office park with several office units from 360 – 1440 sq. m, with car-parking and green spaces between the buildings which would be 2 storey’s and of modern materials.
- Indicative layout 5788A-02B – which shows a central spine road as a continuation of Bowling Green, a footpath link to Leicester Road and numerous units grouped along the road, with parking and landscaped areas
- A statement, outlining the applicants approach to the P.P.S 4, sequential test - which concludes that there is a shortage of office space in Melton Mowbray; there is a lack of an identified office ‘park’ and that in locational terms, the application site accords with the sequential approach in the absence of any other suitable sites.

The application is presented to the Committee at the request of the Chairman.

**Relevant History:-**

06/01012/OUT - B1 use within a Business Park setting - Approved 17.10.07

05/00977/OUT – Outline B1 uses – Withdrawn

90/00059/FUL – Clubhouse for adjacent football pitch – Allowed on Non-determination appeal October 1990

86/00003/OUT - D.I.Y warehouse/Pub and Restaurant – Approved 30.04.86

**Planning Policies:-**

**PPS1 - Delivering Sustainable Development** - planning authorities should promote more sustainable use of land and reduction of car-based transport through suitably located developments/ land and buildings.

**PPS 4 – Planning for Sustainable Economic Growth** - Extends the sequential approach for retail developments to other Town Centre Uses (Offices). Promotes mix of business opportunities/sustainable development and that Local Planning Authorities should look favourably on suitable development that encourages economic growth

**P.S 5 – Planning for the Historic Environment** – seeks to protect heritage assets including archaeology

**PPS 9 – Bio-diversity and Geological Conservation** – seeks to protect important sites and habitat/protected species

**PPG 17 – Sport and Recreation** – Seeks to retain and promote existing open space/recreational uses

**PPS 25 – Development and Flood-risk** – Establishes a sequential approach to the siting of developments in flood-risk zones

**Circular 11/95 – The use of Conditions in Planning Permission** – Establishes 3 tests in relation to the consideration of ‘renewal’ applications being:-

- Whether there has been a change in Policy since the last approval
- Whether there has been a change in circumstances since the last approval
- If the continued failure to implement the approval would impact on the proper planning of the area

**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 R1 – Allocates 1.9ha land at Leicester Road, M.M for recreational purposes

**Consultations:-**

<b>Consultation reply</b>	<b>Assessment of Head of Regulatory Services</b>
<b>Highway Authority</b> – No change to previous comments on earlier application	Noted – there was no previous highway objection
<b>LCC Ecology</b> – Watching Brief required	Noted
<b>L.C.C Archaeology</b> - have checked the site against	Noted

<p>the Leicestershire &amp; Rutland Historic Environment Record (HER) and do not feel that any archaeological work is required as part of the scheme.</p>	
<p><b>Head of Policy and Performance</b> - The current application seeks an extension of time to an extant permission, 06/01012/OUT, dated 17/10/07. Following initial comments and further additional comments regarding the application, a Sequential Approach Assessment (SAA) has been submitted in support of the application, in accordance with the requirements of PPS4.</p> <p>The SAA provided gives a description of the proposed development; examines the requirements for sequential tests outlined in PPS4; assesses the proposal in relation to emerging policy outlined in the Core Strategy and associated evidence base; and, concludes by addressing various issues raised by previous consultation comments, including provision of a report on the Melton Mowbray Office market by Mather Jamie. Earlier comments of the 20<sup>th</sup> May 2010 previously discussed PPS4, the Core Strategy and associated evidence base.</p> <p>The Mather Jamie report now provides an up to date analysis of the Melton Mowbray office market and assessment of demand. This identifies that the office market in Melton is restricted with available space comprising small, low quality premises. It notes the difference between users of this type of accommodation and modern, purpose built offices which the current application proposes and considers an absence of such accommodation is stifling the market and causing Melton to miss out on new job creation and preventing expansion of existing businesses. The report fails to identify any land currently available and being marketed for new office development. An examination of a number of various potential sites was undertaken; these were subsequently discounted giving a variety of reasons relating to deliverability and viability. The report also discounts the various existing and proposed industrial estates as having the potential to cater for office development as the quality of environment on offer discourages office base enterprises. A judgement will need to be taken as to the validity of these reasons; a combination of sites may be able to provide sufficient office accommodation in sequentially preferable locations.</p>	<p>Noted.</p> <p>The submitted SAA is considered to comply with PPS 4</p> <p>P.PS 4 indicates that Local Planning Authorities should be flexible in their approach to the assessment of such issues.</p> <p>P.P.S 4 indicates there should be a broad spread of the type of business opportunities that are available.</p> <p>The applicant argues that this is the only site on which an 'office park' type development can be provided.</p>
<p>The application proposes office development in a</p>	<p>The lack of suitable sites is noted</p>

<p>business park setting covering 2.2 hectares; the sequential approach assessment submitted does not identify any suitable sites for such development which are in a sequentially preferable position. Evidence studies undertaken by the Borough Council in support of the Core Strategy and relocation of the Council Offices do not contradict this conclusion. However, the proposal is not for a single user but involves a speculative development creating smaller units for a variety of occupiers. As such it may be possible that accommodation of this type could be provided at a number of sequentially preferable sites around Melton Mowbray town centre and edge of centre. PPS4 states that in considering sequential assessments LPAs should ensure that in considering sites in or on the edge of centres, developers and operators have demonstrated flexibility. Consideration should be given to the potential for disaggregation, with the office development proposed supplied at a number of different sites better related to the town centre. However, whether sufficient sites exist which are available, suitable and viable to meet the amount to be provided by the proposal is questionable.</p> <p>It is also of note that the site has the potential to accommodate a significant proportion of the strategic requirement for B1 office space within the Borough and as such would compromise the role of the Local Development Framework in making such allocations, concentrating the entire requirement within a single location in the Borough.</p>	<p>The conclusion in relation to the L.D.F is noted, although this situation is unchanged from the last approval</p>
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**Representations:**

As the proposal is for the renewal of an earlier approval, no publicity was required.

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

<b>Considerations</b>	<b>Assessment of Head of Regulatory Services</b>
<p>Advice contained in Circular 11/95</p>	<p>Circular 11/95 is particularly clear in relation to 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. 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</p>

	<p>hinder the proper planning of the area.</p> <p>These issues are discussed below.</p>
<p><b>Whether there has been a change in Policy since the last approval</b></p> <p>P.P.S 4 – Planning for Sustainable Economic Growth - Establishes a sequential approach to, the location of Town Centre Uses (Offices). Promotes mix of business opportunities/sustainable development and should look favourably on development that encourages economic growth</p> <p>P.P.S 5 – Planning for the Historic Environment – seeks to protect heritage assets including archaeology</p> <p>P.P.S 25 – Development and Flood-risk – Establishes a sequential approach to the siting of developments in flood-risk zones</p>	<p>At the time of the previous approval in 2007, the Development Plan was the adopted Melton Local Plan and this is unchanged, apart from several policies being ‘saved’.</p> <p>The East Midlands regional Plan was adopted in March 2009, but has since been repealed earlier this year..</p> <p>Policy R1 of the Local Plan allocates the land for recreational purposes and seeks to protect such land, although at the time of the last approval, the Planning Committee was satisfied that there was no need to retain the land for such purposes and this is unchanged at the present time.</p> <p>There has been some other changes in Government Policy since the last approval in 2007, and these are discussed below:-</p> <p>The applicant has successfully argued that there is both a shortfall in the availability of high quality office and no suitable site for the development of an ‘office park’ type development and that a sequential test does not reveal any suitable sites.</p> <p>The development of this nature, having applied a sequential test is considered to accord with the principles of P.P.S 4</p> <p>This publication supersedes the P.P.G 15 that existed at the time of the previous approval, although the content is very similar.</p> <p>The document replicates the previous guidance in relation to archaeology, although earlier studies have shown that any significant archaeological remains are unlikely on the site and a watching brief is adequate.</p> <p>P.P.S 5 therefore has no influence on the decision in this instance.</p> <p>Since the previous approval, the earlier guidance in P.P.G 25 (which advocated allowing development in flood-risk zones, but mitigating the affects) has been superseded by P.P.S 25 (that now advocates a sequential approach to the release of development land in flood-risk zones).</p> <p>The change is not however relevant in this instance as the site falls within flood-risk zone 1, and would therefore be suitable for release under the P.P.S 25 sequential test.</p>

	The drainage issues are unchanged from the earlier approval. P.P.S 25 therefore has no influence on the decision in this instance.
<b>Whether there has been a change in circumstances since the last approval</b>	There has been no change in circumstances since the previous approval and therefore has no influence on the decision in this instance.
<b>If the continued failure to implement the approval would impact on the proper planning of the area</b>	Whilst the comments of the policy section – that the development represents a significant proportion of the office space requirement for the Borough and could therefore limit the L.D.F process in allocating such sites – such matters were also relevant at the time that the previous permission was granted and therefore this is not a consideration in this instance.  There are no other significant applications in the pipeline and therefore the granting of permission for this development will not impact on the consideration of other proposals or affect the proper planning of the area

**Conclusion**

It is considered that the main (and only) issue for the Committee to consider is whether, when viewed against the 3 tests for renewals contained in Circular 11/95, there is a basis for refusing the renewal. Clearly, the current ‘outline’ permission is still extant, and the Authority have already held ‘pre-application’ discussions with the applicant in relation to the submission of the reserved matters and it is anticipated that a reserved matters submission is immanent. The courts have held that the applicants ‘fall-back’ position is a material planning consideration, and even if this permission was refused, the applicant could still fall back on the extant outline, and the submission and subsequent approval of the reserved matters, would then extend the life of the outline permission and the site would be developed in any event.

In view of the above the proposal is recommended for approval

**RECOMMENDATION:- Approval for the following conditions/reasons:**

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development to which this permission relates shall begin not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
2. No development shall commence on the site until approval of the details of the "layout, scale, external appearance of the building(s), and the landscaping of the site" (hereinafter called "the reserved matters") has been obtained from the Local Planning Authority.
3. No development shall start on site until all materials to be used in the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority.
4. No development shall start on site until a landscape scheme has been submitted to and approved in writing by the Local Planning Authority. This scheme shall indicate full details of the treatment proposed for all hard and soft ground surfaces and boundaries together with the species and materials proposed, their disposition and existing and finished levels or contours. The scheme shall also indicate and specify all existing trees and hedgerows on the land which shall be retained

- in their entirety, unless otherwise agreed in writing by the Local Planning Authority, together with measures for their protection in the course of development.
5. The approved landscape scheme (both hard and soft) shall be carried out before 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.
  6. No development shall commence on site until provision has been made for the satisfactory disposal of foul and surface water from the site in accordance with a scheme which shall first have been submitted to and approved by the Local Planning Authority.
  7. All details of the proposed development shall comply with the design standards of the Leicestershire County Council as contained in its current design standards document. Such details must include parking and turning facilities, access widths, gradients, surfacing and visibility splays and be submitted for approval by the local Planning Authority in consultation with the Highway Authority before development commences. Note: Your attention is drawn to the requirement contained in the Highway Authority's current design guide to provide Traffic Calming measures within the new development.
  8. The use of the Development shall be restricted to the B1 use applied for and no B2, B8 distribution or other retail sales should be permitted.
  9. Before first use of the development hereby permitted, turning facilities shall be provided within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall be available for use at all times.
  10. 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.
  11. 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.
  12. No part of the development (as identified/indicated/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 CPA/LPA/Director. 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. 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 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.
  13. Before the development hereby permitted is first used, off-street car parking/lorry parking provision shall be made within the application site in accordance with details to be submitted to and agreed in writing by the Local Planning Authority. The parking area shall be surfaced, marked out prior to the development being brought into use and shall be so maintained at all times.
  14. Before the development hereby permitted is first used, cycle parking provision shall be made to the satisfaction of the LPA and once provided shall be maintained and kept available for use in perpetuity.

15. Before first use of the development hereby permitted the access drives and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 10 metres behind the Highway boundary and shall be so maintained at all times.
16. Before first use of the development hereby permitted, 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on the Highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above ground level, in accordance with the current standards of the Highway Authority and shall be so maintained in perpetuity.
17. No development shall commence on site until appropriate TRO (Waiting Restrictions) for Bowling Green has been agreed with the Highway Authority and formal consultation has commenced. The approved regulation order, once confirmed, shall be installed with approved signage and lines at no expense to Leicestershire County Council prior to first use of any part of the development
18. Before first use of the development hereby permitted, the Developer shall provide, for each employee, at no expense to the Leicestershire County Council, one Public Transport Travel Pack and a free 3-month Public Transport Travel Pass.
19. The development hereby permitted shall not be brought into use until appropriate improvements to the existing public bus service(s) link to the site and the provision of new bus stop(s) at safe accessible location(s) adjacent to the proposed access to the site have been carried out to the satisfaction of the Local Planning Authority. Details of the improvements shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Leicestershire County Council before development commences.
20. A watching brief for protected species shall be maintained at all times throughout the development. In the event of any protected species being discovered, works should cease temporarily whilst expert advice is sought.
21. Details of any proposed external illumination shall be submitted and approved in writing by the Local Planning Authority. Any external illumination must not cast glare onto the railway, or otherwise conflict with a train driver's vision of railway signals and line-side signs.
22. Details of a suitable trespass proof fence adjacent to the railway boundary shall be submitted and approved in writing by the local planning authority. The fencing shall be erected prior to the first occupation of the buildings and shall thereafter be maintained in perpetuity.
23. The "reserved matters" required under condition no.2 above and the development shall be of a high quality of design in accordance with the details submitted in the planning policy statement and design and access statement submitted on the 26th October 2006

**Contact: Mr Rob Forrester**

**30th July 2010**