

Reference: 10/00441/COU
Date submitted: 07.06.10
Applicant: Mr Harvey, The Homestead, 40 Main Street, Hoby.
Location: Building on Land to the Rear of The Homestead, 40 Main Street, Hoby.
Proposal: Proposed Change of Use of Land and Building from Agriculture to Class B1 Use.

Introduction:-

The proposal seeks the change of use of an existing, recently constructed, agricultural building to a use from an agricultural use to a use falling within Class B1 of the Town and Country Planning (Use Classes) Order 1987. The application results from an enforcement investigation into the proposed use of the building.

The building has been constructed in accordance with plans approved under planning permission 09/00445/FUL, permitted for sole agricultural purposes. It was discovered that following its construction, the building was fitted out as 2 offices, with all services such as electricity, telephone and internet connections, toilet and kitchen facilities. The ensuing investigation by the Enforcement Officer has resulted in protracted discussions with the applicant's agent and local objectors, including the holding of a public meeting where Officers were invited to discuss the allegations of a breach of planning control, with particular focus on the fitting out of the building and its intended use. This application is a result of these discussions.

Relevant History:-

09/00445/FUL: Reconstruction of a single storey agricultural building - granted subject to a condition which requires that the building is used for solely agricultural purposes.

Planning Policies:-

PPS1 – Delivering Sustainable Development – states that sustainable development is the core principle underpinning planning and that planning should facilitate and promote sustainable and inclusive patterns of rural development. This would be achieved by, amongst other measures, contributing to sustainable economic development.

PPS4 – Planning for Sustainable Economic Growth – states that planning authorities should ensure that the countryside is protected for the sake of its intrinsic character and beauty. It is further discussed in the following policies:

Policy EC6 - In rural areas, local planning authorities should strictly control economic development in open countryside away from existing settlements and support the conversion and re-use of appropriately located and suitably constructed existing buildings in the countryside for economic development.

Policy EC12 – Re-use of buildings in the countryside for economic development purposes will usually be preferable. Local Planning Authorities should support small-scale economic development where it provides the most sustainable option in villages, or other locations, that are remote from local service centres, recognising that a site may be an acceptable location for development even though it may not be readily accessible by public transport. It also advises that Local Planning Authorities should approve planning applications for the conversion and re-use of

existing buildings in the countryside for economic development, particularly those adjacent or closely related to towns or villages, where the benefits outweigh the harm in terms of:

- i. the potential impact on the countryside, landscapes and wildlife
- ii. local economic and social needs and opportunities
- iii. settlement patterns and the level of accessibility to service centres, markets and housing
- iv. the need to conserve, or the desirability of conserving, heritage assets and
- v. the suitability of the building(s), and of different scales, for re-use recognising that replacement of buildings should be favoured where this would result in a more acceptable and sustainable development than might be achieved through conversion

Melton Local Plan

Policy OS2 states that permission will not be granted for development outside town and village envelopes with some exceptions for agriculture, employment, recreation and tourism.

Policy C2 of the adopted Melton Local Plan supports farm based diversification proposals which encourage rural economic diversity providing potential benefits for the local economy and environment subject to a list of criteria the nature of the diversification and the impact that such developments could have on the amenities and character of an area.

Policy C6 of the adopted Melton Local Plan supports the reuse of rural buildings for commercial or industrial use subject to criteria addressing alterations/extensions to the building, access and parking, highway safety and residential amenity.

Melton LDF Preferred Options for the Core Strategy

This seeks to focus economic development in Melton Mowbray with limited diversification in the rural area and limited development in villages, particularly outside of Category 1 and 2 settlements where employment will be more strictly controlled. Nonetheless the Preferred Options for the Core Strategy seeks to regenerate the rural economy and supports small-scale expansion of existing businesses. It goes on to identify that these businesses contribute to the local economy and that their continuing viability may require small-scale expansion or intensification.

Consultations:-

Consultation reply	Assessment of Head of Regulatory Services
<p>Hoby with Rotherby Parish Council: The Parish Council objects on a number of points:</p> <ul style="list-style-type: none"> • The position of the development on the edge of the village is inappropriate for B1 development due to the impact that it would have on the surrounding countryside. It should remain agriculture in nature. 	<p>A B1 Business Use is defined as:</p> <p>Use for all or any of the following purposes—</p> <ul style="list-style-type: none"> (a) as an office other than a use within class A2 (financial and professional services), (b) for research and development of products or processes, or (c) for any industrial process, being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. <p>The physical impact that the use would have on the surrounding area would be limited to the</p>

<p>requirement for a minimum width of access to B1 developments of 6 metres that is not currently met by the current access of Main Street. They consider that such a width of access would have a detrimental impact on the look and feel of the conservation area. The access will be on a blind bend which already serves 1 dwelling and another has been approved, further vehicle movements on and off the site will be dangerous. Main Street is a popular 'rat run' and suffers from speeding traffic.</p> <ul style="list-style-type: none"> • The Parish Council is concerned about the access to the development via Back Lane. Although this proposal does not form part of the application, they are concerned that any tenants may use Back Lane as a more convenient route. This is a single track road and is not maintained to usual highway standards and is not suitable for increased vehicle movements. The access needs to remain open for agricultural vehicles and for walkers to access footpath H54. 	<p>It is not proposed that the use will utilise Back Lane for access in connection with the proposed use, rather proposing to provide access through the existing curtilage of The Homestead, direct onto Main Street. The Highways Officer has stated in their comments that Back Lane is totally unsuitable in design, width and construction to cater for any additional traffic. If permission was to be granted for this proposal, consideration could be given to conditions preventing the use of Back Lane for traffic in connection with the development.</p>
<p>Highways:</p> <p>The proposed development is likely to lead to the intensification in use of the existing vehicular access from Main Street and or Back Lane, neither of which is considered suitable to cater for any additional traffic. The existing vehicular access serving the farm from Main Street, lacks adequate width, radii, visibility splays including pedestrian visibility splays and forward visibility both for vehicles turning right into the access and for following vehicles approaching any vehicles waiting to turn right into the access. Back Lane is totally unsuitable in design, width and construction to cater for any additional traffic. It is therefore considered that the proposal is likely to increase dangers for highway users including pedestrians to the detriment of highway safety.</p> <p>Further comments:</p> <p>The proposal appears to suggest that access will only be directly from Main Street and not Back Lane, however given the Back Lane is publicly maintained highway past the building it is not clear how this could be controlled, as</p>	<p>It is proposed that the existing access from Main Street into the existing curtilage of The Homestead be used for the access to the proposed business use to the rear of the site. No improvements have been suggested for the access, which not only would be used for the access to the existing dwellinghouse and building subject of this application, but also in connection with the recently approved dwellinghouse (planning permission 09/00904/FUL).</p> <p>It is considered that the use of the access would be unsatisfactory and be detrimental to highway safety for the reasons given by the Highways Officer.</p> <p>The alternative access along Back Lane is wholly unsuitable for an increase in vehicular traffic by virtue of its design, width and construction, increasing danger to highway users and does not provide a suitable alternative to access the site.</p> <p>The Highways Officer has also advised</p>

<p>the public highway cannot be blocked off.</p>	<p>verbally that he would still object on the same grounds if a personal use of the office by the applicant was proposed, with the difficulties of enforcing such a restriction and the likelihood of visitors to the site.</p>
<p>Conservation Officer:</p> <p>These two outbuildings were clearly once associated with the farmstead.</p> <p>Recently both have been renovated which on one hand has ensured their longer term future and maintenance but on the other hand may be considered to have affected their historic character to a degree.</p> <p>In conservation terms, in their present restored state, has no objection to the proposed B1 use.</p>	<p>The building was granted planning permission recently, and its physical development is not a subject to this application.</p> <p>The access to the building is through the curtilage of The Homestead, which is a Grade II Listed Building. The access through the land is an existing access, to serve the dwelling, a second approved dwelling and partly the agricultural land beyond.</p> <p>It is considered that as this is an existing access, its use would not have any additional impact on the setting of the listed building.</p>

Representations:

Letters of neighbour consultation were sent and a site notice was displayed near to the site which resulted in 9 letters of objection from 8 households. The comments were as follows;

<p>Access and Highway Safety:</p> <p>A number of objections have been received in relation to the proposed access route and the related safety issues.</p> <p>Increase in traffic generation.</p> <p>Issues with car parking on site</p>	<p>An increase in traffic generation is not only a consideration in respect of highway safety, but could also have a detrimental impact on the amenities and character of the area and those neighbouring the site, including those of the dwelling and proposed dwelling either side of the proposed access route. Whilst the applicant has advised that there are only to be two vehicles likely to be accessing the site in connection with the use, consideration must also be given to potential for visitors to the premises in connection with the business/es, the vehicles of the owners of the adjacent properties and the consideration that the buildings are large enough to accommodate more members of staff and this could not be controlled by condition as it would be difficult to enforce. In any event, the Committee needs to consider the proposed use (B1), rather than the applicant's immediate intentions.</p> <p>Whilst there is sufficient car parking on the site,</p>
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<p>The Proposed access is onto a blind bend, which has been acknowledged by the applicant with the installation of a mirror on the other side of the road.</p> <p>Access onto Main Street is on a busy bus route.</p> <p>That the use of Back Lane, whilst not forming part of the application, would be unsuitable for access to the site, being unmade, a single track and forming part of the Leicestershire Round footpath.</p> <p>A restriction on the use of Back Lane as an access to the site would be unenforceable. Accordingly; the proposed change of use would have a detrimental effect on the neighbours and residents of Back Lane</p> <p>Character and Appearance of the Area:</p> <p>The use of the building for a B1 use would be an urbanisation of the area and change its character permanently.</p> <p>There are no other commercial businesses in the area, save for the public house, The Bluebell.</p> <p>The building has an adverse effect on the local environment, is in a prominent location outside of the village envelope and is out of keeping.</p> <p>Policy Implications:</p> <p>Hoby is a category 3 village, which is defined as being unsuitable for new employment</p>	<p>this would have its own detrimental impact on the character of the area.</p> <p>See commentary above.</p> <p>The nature of existing traffic has contributed to the consideration of the proposal in highway safety terms</p> <p>See comments above; it is advised that Back Lane would be an unsuitable access.</p> <p>Consideration could be given to a condition blocking vehicle access at the point where the lane accesses the site, allowing a pedestrian access to permit continued use of the footpath.</p> <p>The building is a small building, being constructed in a similar style and in materials sympathetic to its countryside location. Its use for an alternative, Class B1 business use would be unlikely to create an urbanisation of the area. A B1 business use is one which, by definition, would not have any detrimental impact by virtue of the actual business activity. Where such a use could have an impact would be in respect of trappings of business, advertisements, outside storage etc and the parking of vehicles, some of which could be controlled by condition.</p> <p>The fact that there is only one other business within the village is not a material consideration in determining the application. Indeed, Government guidance and Development Plan policies support such enterprise in villages and rural areas, subject to strict criteria.</p> <p>The building is already subject to grant of full planning permission, 09/00445/FUL. The physical effect that the building should not form part of the consideration of this application.</p> <p>The Core Strategy (Preferred Options) does not support new employment development within category 3 villages, but supports development</p>
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<p>development.</p> <p>Policy C2 of the Melton Local Plan supports farm based diversification. This is not relevant in this case as the site is not a working farm.</p> <p>Policy C6 is not applicable as this proposal is not for the re-use, adaptation or conversion of an existing rural building.</p> <p>If permitted, this would set a precedent for similar developments.</p> <p>Other objections:</p> <p>The development of the building as an office is not needed.</p> <p>The land is not farmed by the applicant but by tenants.</p> <p>Use of the building for commercial purposes would be by businesses from outside of the area.</p> <p>Issue of a loss of privacy from the windows that overlook neighbouring land.</p>	<p>that is normally acceptable in the countryside. Policies C2 and C6 are discussed above with regard to development within the countryside, which offers general support to such small scale employment enterprises, subject to several criteria. The building which is subject of this application lies outside the village envelope; accordingly, the use is regarded as being broadly compliant with the terms of Policy C6, and the Core Strategy. PPS4 introduces further consideration in supporting the re-use of buildings for economic development, particularly close or adjacent to towns or villages, subject to criteria, indeed accepting that replacement of buildings where it would result in more acceptable and sustainable development than might have been achieved through conversion.</p> <p>See commentary above.</p> <p>See commentary above. It is considered that C6 covers a range of building types and those the subject of this application are not excluded.</p> <p>Precedent is not a planning consideration as all applications must be considered on their individual planning merits.</p> <p>This is not a planning consideration. The fact that the respondents may consider that such development is unnecessary; the matter should be considered in strict planning terms.</p> <p>How and by whom the land is being farmed is not a consideration, but has been one of the issues under which the enforcement investigation into the proposed use has been considered.</p> <p>The applicant has not described the use, nor indicated that the use would be for their sole purpose or let/sold to an outside business. Whilst this may be the case, the policies of the Local Plan and PPS4 are broadly supportive of such uses.</p> <p>If the buildings are permitted for a B1 business use, it is likely that there would be people frequently using the building, and this could result in an amount of overlooking of adjacent land. However, it is not considered that the</p>
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<p>Deception of the applicant in applying for permission to construct an agricultural building, but wishing to use it for an alternative purpose being unjust and unfair.</p>	<p>overlooking would be of immediate private gardens, nor of windows of nearby residential properties to the detriment of the privacy of those neighbours. Accordingly, this would not be a consideration for refusing the application.</p> <p>The opinion of respondents that it is a deception by the applicant arises from the original application being for an agricultural building but, whilst constructed in the physical form permitted by the approved plans, it has been fitted out as an office. The fitting out of the building has been the subject of a lengthy investigation with regards to its proposed use which resulted in the submission of this application.</p> <p>Whilst the respondents may feel that the developer has induced the Local Planning Authority into permitting a development that it would not usually, this is not a material consideration. All applications for planning permission must be determined on their individual planning merits and not based on 'reward' or 'penalty' for earlier actions.</p>
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Other material considerations (not raised through consultation or representation)

<p>Application of Planning Policy: Influence of the Melton Local Development Framework Core Strategy Preferred Options</p>	<p>The saved policies of the Melton Local Plan go some way to supporting such small scale employment development within areas in the countryside in Policy C6.</p> <p>Whilst the Core Strategy introduces a significant redirection of the policy, seeking to focus business and industrial use in rural centres and larger villages, it continues to support such small scale development in Category 3 villages and countryside locations.</p>
<p>Alternative use</p>	<p>The current use is for strict sole agricultural use. Agriculture is defined within the Planning Act as including:</p> <p>'horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and "agricultural" shall be construed accordingly';</p> <p>The plans approved under 09/00445/FUL,</p>

	<p>indicated that the ‘rooms’ were to be used for storage purposes. There has been much discussion about whether a use of the building for an office use with the sole purpose of administering an agricultural use on the land would be a material change or fit with the above definition. This has been a factor in the investigation into this matter, with officers seeking to establish the use of the building in order to determine whether there has been a breach of planning control.</p> <p>Whilst the building has been set and fitted out as an office, there has currently been no actual use of the building since its completion, with the developer awaiting a formal decision before proceeding further.</p>
<p>Impact on adjacent residential properties</p>	<p>The provision of an access through the curtilage of The Homestead, would have a detrimental effect on amenities that the occupants of the property . Whilst the applicant currently lives at the property, we must consider the future of the site and their future occupation. A further consideration would be the impact that the access and parking could have on the future occupants of the recently approved dwelling, which the access road bounds along the length of the proposed curtilage.</p> <p>The building is positioned to the rear of the recently approved dwellinghouse, but is set at a lower level; accordingly, any impact that such a use would be likely to have would be the result of disturbance from the access and the impact of parking and manoeuvring of vehicles within a close vicinity.</p>

Conclusion

The application site lies outside the designated Village Envelope and the Conservation Area, being on the boundary with the Countryside as defined by the Local Plan. The use of the building for a small scale B1 Business use benefits from support under saved policy C6 of the Local Plan and PPS4. The Core Strategy has introduced a significant redirection in these policies, seeking to limit such development to larger rural centres being category 1 and 2 villages and to the town, but retaining exceptions in rural areas and category 3 villages for small scale conversions for business purposes. Additionally, the use does broadly conform to Government Guidance provided in PPS4 which supports such small scale economic development in rural areas.

The proposed access route to the site from Main Street, through the curtilage of The Homestead, is considered to be unsuitable to cater for any additional traffic. The proposed access lacks adequate width, radii, visibility splays including pedestrian visibility splays and forward visibility both for vehicles turning right into the access and for following vehicles approaching any vehicles waiting to turn right into the access. Accordingly; the access would be hazardous and detrimental to highway safety. The proposal is therefore contrary to the provisions of C6 of the Local Plan and PPS4.

There is likely to be an impact on the dwelling and the proposed dwelling either side of the access road, which would be detrimental to the amenities that the occupants of these properties would expect to reasonably enjoy, by virtue of noise and disturbance created by passing vehicles and people accessing and leaving the site. This would be further compounded by the visual impact of the parking of employees and visiting vehicles, which would also have a detrimental impact on the generally residential character and appearance of the area when viewed from a distance or from the adjacent footpath.

It should be noted that whilst the actual 'conversion' works have been carried out, it is considered that there is currently no breach of planning control. The works of fitting out and internal alteration are not development in planning terms and the buildings have not been subject to date to any use.

RECOMMENDATION

Refuse for the following reasons:

1. The access to the site via the access off Main Street, adjacent to The Homestead would be unsuitable for an increase in vehicular traffic. The proposed access lacks adequate width, radii, visibility splays including pedestrian visibility splays and forward visibility both for vehicles turning right into the access and for following vehicles approaching any vehicles waiting to turn right into the access, resulting in an access that would be detrimental to the safety of all highway users. Accordingly, the use would be contrary to the provisions of Policy C6 of the Melton Local Plan which only allow such proposals where there would be no detrimental impact on highway safety.
2. The use, by virtue of an increase in traffic and personal visits would have a detrimental impact on the residential amenities of neighbours of the site due to noise and disturbance that would be created by the manoeuvring vehicles and an increase in people accessing the building through the site contrary to Policy C6 of the adopted Melton Local Plan
3. The parking of employees and visitors vehicles would have a detrimental visual impact on the character of the area and the countryside. Such a detrimental impact renders the use proposed use being contrary to the provisions of C6 of the Melton Local Plan and PPS4 which seeks to ensure that such provision should be provided without detriment to the visual amenity of the countryside.

Officer to contact: **Mr A Dudley**

Date: 2nd August 2010