

**Committee Date: 2nd September 2010**

**Reference:** 10/00582/VAC  
**Date Submitted:** 02.08.2010  
**Applicant:** Ms Penny Zygmant & Lookmaster Limited  
**Location:** Sysonby Lodge, Nottingham Road, Melton Mowbray, LE13 0NU  
**Proposal:** Variation of condition 2 of permission 04/00918/FUL, to remove the occupancy restriction from unit 5

**Introduction:-**

**This application seeks planning permission for the variation of a condition that restricts occupation of the property to the over 55's, in relation to unit 5.**

The original Planning permission for the conversion of the building in to 2 dwellings (units 5 and 6) was granted by Committee in October 2004 and was part of a larger scheme to convert 3 ranges of 'barns/outbuildings' in to numerous dwellings. The buildings form the curtilage buildings to Sysonby Lodge, an imposing 'Country House' that is also converted to several smaller dwelling units and was the subject of a recent appeal referred to by the applicant.

The application is presented to the Committee because the recommendation comprises a departure from current Local Plan Policy and the previous involvement by Committee.

**The key issues are considered to be:**

- **The original basis for the condition limiting occupancy to over 55's**
- **Current national policy requirements (and how they relate to the original condition)**
- **The impact of a related appeal decision**

**Relevant History:-**

04/00460/FUL - Change of use of Main House to residential & Change of use of Blocks A, B, C, to restricted residential - retirement complex (9 dwellings) – Approved 01.09.2004

04/00918/FUL - Proposed revision of Planning Permission 04/00460/FUL to return Unit 5 The Cottage to original internal layout (insertion of staircase and internal wall in original position) to form Unit 5 and Unit 6 semi-detached dwellings – Approved 25.10.2004 (Subject to condition the subject of current application)

07/00773/FUL - Conversion of Sysonby Lodge and outbuildings to 9 apartments – Refused 19.12.2007

APP/Y2430/A/08/2067013 – Appeal against above refusal – Allowed 06.10.2008

**Planning Policies:-**

**PPS1** - Delivering Sustainable Development - planning authorities should promote more efficient use of land through higher density development and suitably located previously developed land and buildings.

**PPS3** - Housing - planning system should deliver a flexible, responsive supply of land - which makes efficient and effective use of land, including re-use of previously-developed land. It

supports the efficient use of previously developed sites (brownfield). It promotes designs and layouts which make efficient and effective use of land, encouraging innovative approaches. It encourages the re-use of vacant buildings for residential use.

**PPS7** - Sustainable Development in Rural Areas - Key principle in land use planning is giving priority to re-use of previously-developed ('brownfield') sites and providing rural housing close to existing towns/villages. Allows in some instances for the re-use of rural buildings for residential purposes.

**PPS 5** - states that authorities should pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Areas/Setting of Listed Buildings

**Melton Local Plan (saved policies):**

Policies OS2 and BE1:-

Allows for appropriate uses in the Countryside outside of Development Limits and:-

- the form, character and appearance of the settlement are not adversely affected;
- the form, size, scale, mass, materials and architectural detailing of the development is in keeping with the character of the 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 C7:-

Seeks to resist barn conversions to dwellings outside of village envelopes except for agricultural workers or affordable housing.

**Consultations:-**

<b>Consultation reply</b>	<b>Assessment of Head of Regulatory Services</b>
<b>Ward Member</b> –no response received at the time of drafting the report	

**Representations:**

The neighbouring properties have been consulted and 4 letters of representation have been received at the time of writing this report. Consultation period does not end until the 10 September 2010.

**The following representations have been received:-**

<b>Considerations</b>	<b>Assessment of Head of Regulatory Services</b>
We chose to buy our property because it was restricted to the over 55's – all the other residents have agreed to it – and the properties were sold at a premium due to the restriction, compared with similar property elsewhere. The sales particulars made it clear that the property was restricted.	The 'sales particulars' and any agreements on age restrictions on which residents based their purchase, is a legal matter between the buyer and seller and not a 'planning' consideration. If the residents have been mis-sold their property, they would need to take their own legal action.

Conversion of Sysonby Lodge – if the developer ever gets on with the project, and introduction of families and children by reducing the age limit can not be tolerated	The comments regarding the completion of the project are noted, although this is something that purchasers of properties on the scheme could have controlled through their purchase. Central Government policy contained in P.P.S 3, seeks inclusive communities and to avoid social exclusion, and to seek to resist families and children is not in accordance with Governments aims.
It is selfish of the developer to apply for this removal at this stage, and merely widens the scope of his sale at the expense of the other 9 residents and if the closer attention was made to the property and its deteriorating approaches, then perhaps a sale could be achieved. We are all bound by the joint obligation to share in the management of the common areas and the covenant, not to sell or lease to anyone under the age of 55	The objectors comments regarding the impact of the application are noted – see above.  The management obligation in relation to communal areas is noted – and the residents therefore have control over any deterioration in appearance.  A covenant restricting age of occupation is for residents to enforce as legal agreements on sales are not material planning considerations.
The site is surely Plot 2 (not unit 5) and we would point out that not all residents have been notified. The map is unclear and the blue line is no longer correct as the properties are now ‘freehold’ and the applicant only owns number 5	The application site is described as Plot 5 by the applicant and shown as such on the approved plans for application ref 04/00918/FUL
When the original application was approved by Committee, it was exclusively for the over 55’s, due to a lack of housing aimed at this age group. As the majority of the population is now 50+, there is a need for discrete housing that targets this age group, and this will increase. There has been no additional housing for the over 55’s in the Borough since the previous approval in 2004 and therefore not a pressing need to release this site to other groups.	Whilst the original approval was limited to the over 55’s, government policy has since changed and the condition can no longer be justified.  Whilst the comments regarding over 55’s is noted, limiting occupation in such a manner is contrary to PPS 3 advice regarding social exclusion and inclusive/mixed communities.

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

<b>Considerations</b>	<b>Assessment of Head of Regulatory Services</b>
Removal of the Over 55’s Condition	With applications for the removal of conditions, only the condition itself can be considered – in this instance, whether it is appropriate to retain the condition in view of the policy advice that exists today.  When the conversion applications were considered by the Committee in 2004, the policy at the time was C7 of the Adopted Local plan, which followed advice contained in PPG 7 in seeking to resist conversions to dwellings, in favour of employment generating uses.  The applications were approved by Committee, who were persuaded by the applicants case that there was a lack of accommodation aimed at older people, and the applications were approved, as an exception to

	<p>normal policy but with the restrictive condition the subject of this application.</p> <p>Subsequent to the approvals in 2004, the guidance has changed, and PPS 3 seeks to achieve mixed and balanced communities, that there should be no social exclusion. The condition is therefore no longer compatible with Central Government housing policy expressed in PPS 3.</p>
<p><b>Impact of related appeal decision</b></p> <p>In 2007, there was a similar application for the conversion of the main Sysonby Lodge (the Listed Country House), which the Council refused on the same policy C7, although the subsequent appeal was allowed.</p>	<p><b>The Inspector made specific reference to the fact that although the proposal was contrary to the Adopted Local Plan Policy C7, this was somewhat out-of-date and was no longer in line with the newer guidance contained in PPS 7,</b> which was not as restrictive as its predecessor – PPG 7 – and Government policy allowed for appropriate conversions to dwellings as the re-use of vacant buildings for housing purposes was encouraged by PPS 3.</p> <p>As the only reason for restricting the occupation of the conversion scheme at Sysonby Lodge, was that at the time (in 2004), the scheme would not have been approved (as it was contrary to Policy C7), and the recent appeal indicates that such conversions are now acceptable, then there is no longer a justification for restricting the occupancy of the site.</p>

### Conclusion

It is considered that the only issue for the Committee to consider is the condition itself, which was imposed in 2004, as Government and Local Plan Policy at the time, sought to restrict conversions to residential in favour of employment generating uses. By the time of the appeal in 2008, The Inspector stated that Local Plan Policy C7 was out-dated as the more recent PPS 7 does not seek to resist such conversions and therefore the change of use of the building to general market housing would now be acceptable. As the conversion would now be acceptable (in Policy terms) and in line with Government advice, there is no longer a justification for the restrictive condition which should be relaxed.

In view of the above justification the proposal is recommended for approval.

**RECOMMENDATION:- Delegate to permit, subject to no additional representations raising new issues on the application before the 10<sup>th</sup> September 2010.**

**Contact : Rob Forrester**

**Date: 23.08.2010**