

Committee date: 14th October 2010

Reference: 09/00121/COU
Date submitted: 10.03.2009
Applicant: Mrs S Moore – Park Lane Kids Limited
Location: Egerton Park Cricket Club, Leicester Road, Melton Mowbray
Proposal: Change of use of building (excluding changing rooms) to Ofstead registered pre-school Monday to Friday 7:30am – 6pm with use of existing cricket club to remain.

Proposal :-

The application seeks retrospective planning permission for a pre-school facility in an existing cricket pavilion as well as retaining the use of the pavilion as a cricket club within the town envelope.

The site is occupied by a cricket pavilion which sits within Egerton Park. The surrounding land is used for cricket pitches and playing fields. To the south of the pavilion is a disused canal and to the north, east and west are playing fields with the River Eye to the north which meanders around the park to the north west. The pavilion currently operates as a pre-school offering flexible childcare and uses land to the north west and west for outdoor play, enclosed by a panel fence and includes shelters, storage areas and play equipment. This use is currently unauthorised and this application seeks to regularise the use on the site. The site is accessed from Leicester Road via an existing track.

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

- **Principle of the change of use of the building**
- **Impact of the external structures in a Protected Open Area and Conservation Area**
- **Access**
- **Sustainable Development**
- **Flooding**

Relevant History:-

None relevant

Planning Policies:-

PPS 1: Delivering Sustainable Development - The guidance says that planning should promote sustainable and inclusive patterns of development. PPS1 requires local authorities to deliver development that is located in areas which reduce the need to travel by car and provide access to all members of the community to jobs, health, housing, education, shops, leisure, and community facilities. PPS1 suggests that the focus for development should be existing centres and discourages any new development which would impact negatively on the environment and actively encourages development which reduces the impacts of climate change.

PPS5 'Planning for the Historic Environment' outlines the Government's policies for effective protection of all aspects of the historic environment. Planning has a central role to play in conserving our heritage assets and utilising the historic environment in creating sustainable places. The Government's overarching aim is that the historic environment and its heritage assets should be conserved and enjoyed for the quality of life they bring to this and future generations. To achieve

this, the Government’s objectives for planning for the historic environment seek to recognise that heritage assets are a non-renewable resource, recognise that intelligently managed change may sometimes be necessary if heritage assets are to be maintained for the long term and wherever possible, heritage assets are put to an appropriate and viable use that is consistent with their conservation.

Planning Policy Statement 25: Development and Flood Risk seeks to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas at highest risk. In determining planning applications it states that the Local Planning Authority should have regard to the policies in the PPS; ensure, where appropriate, that applications are supported by site-specific flood risk assessments; apply the sequential approach to sites to minimise risk by directing most vulnerable development to areas of lowest flood risk; and, ensure that all new development in flood risk areas is appropriately flood resilient and resistant.

Adopted Melton Local Plan (saved policies)

Policies OS1 and BE1 allow for development within Town and Village 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 BE12 states that planning permission will not be granted for development within any area shown on the proposals map as a protected open area except where a proposal is in conjunction or associated with an existing use and the development would not adversely affect the intrinsic character of the area.

The Melton Core Strategy (Preferred Options) DPD, in regard to the town centre, seeks to focus developments which attract a large number of people, especially retail, leisure and office uses, in the town centre to promote its vitality and viability, social inclusion and more sustainable patterns of development. New development opportunities in the town centre are recognised as increasing its appeal through additional activity; and, reducing the use of private motor vehicles.

Consultations:-

Consultation reply	Assessment of Head of Regulatory Services
<p>Highway Authority – The existing access is approximately 5 metres wide and then widens out behind the highway boundary, and therefore in theory at least is sufficient for two vehicles to pass. However in practice due to the small junction radii, it would be difficult for two vehicles to pass. This could be improved by increasing the entry and exit radii. Visibility out of the access is restricted to the right by the bend in the road to approximately 2.4 metres by 45 metres, however assuming that the 85th percentile speed of passing traffic to be 30 mph or less, this accords to the requirements in Manual for Streets which only requires a splay of 2.4 metres by 43 metres. As such the proposal is acceptable. The close proximity of the traffic signal junction is clearly not ideal, however it is not consider that it could be demonstrated that this would make the use</p>	<p>The Highway Authority were requested to consider this application due to the access road leading off the Leicester Road (A607). The pavilion is accessed by a track from Leicester Road which is close to a traffic signal junction. Cars turning into and out of the access could potential cause problems to this junction and on a major road. However, the highway authority is satisfied that the access and visibility is acceptable and complies with standards. Therefore it is not considered that the proposal would have a detrimental impact on highway safety. The access and parking are considered acceptable.</p>

<p>of the access totally unacceptable given the visibility meets with standards. Obviously there is more than adequate off street car parking available to meet the needs of the Nursery. No objection to the proposal.</p>	
<p>Environment Agency - objects to this application because the proposal falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application is located . It is recommended that the application be refused as the application site lies within Flood Zone 3b functional floodplain, defined by PPS 25 as having a high probability of flooding. The development type in the proposed application is classified as More Vulnerable, in line with table D.2 of PPS25. Tables D.1 and D.3 of PPS25 make clear that this type of development is not compatible with this Flood Zone and should not therefore be permitted.</p> <p>PPS25 states that Zone 3b Functional Floodplain should only be used for water-compatible uses and the essential infrastructure</p>	<p>The site lies within the functional floodplain and the proposed use as a children’s pre-school is classed as a vulnerable use. The Environment Agency therefore are recommending refusal of the proposal.</p> <p>The application has been the subject of numerous discussions between the applicant and the Environment Agency. The applicant has submitted details to demonstrate how they have considered the safety of the children as paramount and considered what actions they could do as a company to reduce any possible accidents in the event of flooding;</p> <ul style="list-style-type: none"> • Flood evacuation procedure, practiced regularly • We hold a flood risk assessment • Flood warden monitors the river levels daily and would inform us if there was any imminent danger • the demolition of Leicester Road sports ground kiosk giving an extra 552 square feet on the ‘Flood plain’ which is more than adequate to compensate for the footprint of the sheds in the play area • Mini bus on site to aid with evacuation if speed was of the essence • Early warning system from the environment agency to warn of an expected flood • 180 degree vision of river & canal to see a possible problem before it even breaks the banks • Policy to close in event of possible flood, contacting parents not to attend pre-school • Brentingby dam in place as flood prevention scheme • Pavilion building has never flooded, infact it is one of the safest building should there be a flash flood as we have heating, food and blankets • Possible access over the blue bridge into the grounds of the Grove school should Leicester Road be flooded. <p>The applicant has also written in support of their application stating that there are benefits to the wider community as a result of them renting the pavilion;</p> <ul style="list-style-type: none"> • By paying rent to the Town estate the money is going back into the town for the

	<p>good of a lot of people</p> <ul style="list-style-type: none"> • By renting the pavilion we have upgraded the interior, occupied it during the winter so discouraged crime and vandalism • Helped retain the cricket club by sharing the building with them and so helping financially towards the running costs. • Received the first Outstanding Ofsted inspection in Melton under the new curriculum guidelines. • Employ 12 staff members • Offer 77 part time children with flexible childcare • Offer 22 school children with transport and out of school care, where there is no other space for them <p>The applicant feels that there is enough in place to ensure that the use of the site would not be a risk to the occupants and feel that the application should be approved, they have suggest if planning permission be granted they would accept a condition that if a flood warning was issued for Egerton Park they would have to close.</p> <p>Whist the facilities on offer at this site are noted and should be commended for the childcare they have to offer, the facility it offers to the town and the number of people it employs it still lies within the functional floodplain. In answer to some of the point above the Environment Agency have advised that the Brentingby Dam still allows for Egerton Park to flood up to a 1:20 year flooding event and therefore the park is classified as functional floodplain. When the flooding event are of a nature to be of a greater scale that a 1:20 year event, the area behind the dam begins to fill up to the 1:100 year level. The dam may be overtopped if the storm is larger that the 1:100 year event. Egerton Park and other low lying undeveloped land upstream and downstream provides essential storage in times of flood. They also advised that the park and pavilion have been located on the site for many decades and they do not want to encourage an increase in the number of people (including children) to the extreme risk of flooding at this location. The Environment Agency considers that the nursery is putting children at risk to flooding in the functional floodplain. The new structures to the rear of the pavilion have increased the footprint of the buildings within the floodplain. The structures could get washed away in times of flooding and create blockages downstream and potentially increasing flood risk to others.</p>
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<p>In addition to their objection the Environment Agency would draw the Local Authorities attention to Paragraph 8 of PPS25 that states that the LPA should in determining planning applications apply the sequential approach at a site level to minimise risk by directing the most vulnerable development to areas of lowest risk, matching vulnerability to land use to flood risk. The Environment Agency strongly suggest that alternatives be sought and that due weight be given to the risk of flooding at this particular location.</p> <p>If the Local Authority is minded to approve the application contrary to the Environment Agency objection, it is essential to contact the Environment Agency to discuss the implications prior to determination of the application.</p>	<p>Officers have approached the applicant with regards to the sequential approach. The applicant submitted details of other sites that they had tried to acquire for the facility. Since February 2008 the applicant sought to rent various properties in Melton Mowbray but they either lacked outdoor space or had first floor stairs. They also investigated buying a private house. The applicant then investigated the use of the pavilion which was considered suitable. It is not considered that the site is the only suitable location for a pre-school and accordingly would fail to meet the sequential test. Such facilities have no strict locational requirements and the 'search area' can extend to the wider town. Further advice on this has been received from the Environment Agency who advised (verbally) that even if it was considered that sequentially this is the only site available, they would retain their objection due to its location in the functional floodplain and the vulnerable use.</p> <p>Noted - this accords with the content of PPS25 and should be incorporated into any resolution to grant permission</p> <p>The site lies in the functional floodplain and the proposed use as a pre-school facility is considered to be a more vulnerable use. Whilst the applicant should be commended for the facility that has been provided on site and the measures in place to try and prevent risk to lives on balance the use in the floodplain is not supported and is considered to be contrary to PPS25.</p>
<p>Conservation Officer – This is a fine example of a traditional cricket pavilion which is considered to be an important building within the Melton Mowbray Conservation Area and in terms of the social and sporting history of the town.</p> <p>It must surely be of benefit to the building that it is used on a regular basis rather than on occasional weekend afternoons during the summer. Regular use will, amongst other things, ensure that it is maintained in good order.</p> <p>It is assumed that the pre school use does not involve any change to the appearance of the building and therefore has no objections.</p> <p>It is noted that the area immediately behind the pavilion has now been converted to an outdoor play area with associated sheds etc. enclosed behind 2m fence panels, which in truth tidies up the rear of the building by presenting a consistent appearance.</p>	<p>The existing pavilion is situated within the designated Conservation Area for Melton Mowbray. The surrounding park is also a designated protected area. The proposed use would have no external impact on the building and the Conservation Officer supports the use of the building on a more regular basis as this will ensure that it is maintained. The building is considered to be of importance in the Conservation Area.</p> <p>The proposal involves the use of part of the playing fields to the rear to be used for outdoor play which includes play equipment, storage sheds, sheltered areas and play house all of which is screened by a panel fence. The public views are limited with regards to this and would only be seen when viewed in close proximity to the building or from the north, north west.</p> <p>It is considered that the proposed use, by maintaining the building in good order, will</p>

<p>This development is screened, for the most part, from properties on the opposite side of the river by a band of trees. Likewise this development cannot be seen when viewing the pavilion building from the front or from distance across the cricket field.</p> <p>Therefore, this does not unduly concern.</p>	<p>preserve this part of the Conservation Area.</p>
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Representations:

The application has been the subject of statutory consultation and no letters have been received in relation to the proposal.

Other material considerations (not raised through consultation or representation)

Consideration	Assessment of Head of Regulatory Services
<p>Application of Development Plan and other planning policy.</p> <p>The proposed dwelling is located within the town envelope for Melton Mowbray where there is a presumption in favour of development under the local plan created by Policy OS1.</p> <p>PPS1 strongly supports the location of development within existing settlements and requires local authorities to deliver development that is located in areas which reduce the need to travel by car and provide access to all members of the community to jobs, health, housing, education, shops, leisure, and community facilities. The guidance supports development that reduces energy emissions and climate change but the emphasis is on locations which reduce the need to travel by private car.</p> <p>The site is situated within a Protected Open Area. Policy BE12 states that planning permission will not be granted for development unless it is in connection with an existing use and would not impact on the intrinsic character of the area.</p>	<p>The site is located within the town envelope for Melton Mowbray and is within close proximity to the town centre. The application proposes to use the pavilion, as well as a cricket club, for an Ofsted registered pre-school. It is proposed to retain the changing rooms for the cricket club. The facility is registered for 36 children offering flexible childcare from 7:30am – 6:00pm. The principle of the development is supported with regards to the use.</p> <p>The site lies within Egerton Park which is in close proximity to the town centre. The site is also not far from the bus station and transport links. The site is considered to be in a sustainable location and the applicant has stated that the majority walk being located close to the town centre. The location is considered to comply with the principles of PPS1.</p> <p>The change of use of the pavilion to a shared cricket club and pre-school nursery would not impact on the Protected Open Area as the building exists on the site. The application also includes the erection of some small sheds and associated buildings as well as a panel fence. Whilst these are not directly in connection with the approved use on the site, the cricket club, they are attached to the existing structure and could be buildings for storage in connection with the pavilion. Therefore, due to the siting, scale and size of the associated works to the north and north west the proposal is not considered to adversely impact on the intrinsic character of the Protected Open Area and are considered acceptable in</p>

	this location.
Impact on the character and appearance of the area.	<p>There are no alterations to the existing pavilion, however, the application includes some small associated works to the rear of the building. As discussed in the report, the site is within the designated Conservation Area and a Protected Open Area. The proposed use and associated works are not considered to have an adverse impact on the Protected Open Area and the change of use is considered to preserve this part of the designated Conservation Area.</p> <p>The site is occupied by a cricket pavilion surrounding by open playing fields. The use of the building as a shared pre-school nursery and cricket club will have little impact on the external appearance of the building. The structures to the rear are considered small scale and relatively hidden from public view. Therefore, in this location the proposal is not considered to impact on the character and appearance of the area.</p>
Impact on adjoining residential properties	There are no immediate neighbours to the pavilion and the closest residential properties are some distance from the site. Therefore it is not considered that the proposed dwelling would adversely impact on the amenities of adjoining properties.

Conclusion:

This application relates to retrospective planning permission for the retention of a pre-school and cricket club within the town envelope and Conservation Area for Melton Mowbray. The location of the pre-school is considered acceptable in terms of sustainable development and the principles of PPS1 and sited in the town envelope for Melton the principle of the development complies with OS1 of the Local Plan in respect of its position in the town. The access is considered acceptable and ample parking can be provided. The proposal is also supported by the Conservation Officer as the use would ensure the upkeep and maintenance of an important building in the Conservation Area. The proposal would preserve the Conservation Area and it is not considered that the proposal would adversely impact on the designated Protected Open Area.

However, the site lies within the functional floodplain with a high probability of flooding and the proposed development type is classed as more vulnerable. The applicant has argued that there are adequate measures in place to ensure that lives are not in danger and the safety of the occupants are not at risk, they are also willing to accept a condition to close should flood warnings be issued. Whilst the facility is commended and should be commended for what it provides to the town these arguments are not considered sufficient to set aside the advice in PPS25. On balance it is not considered that the use is acceptable in a functional floodplain as it would be contrary to PPS25.

Therefore in light of this issue the application is recommended for refusal.

RECOMMENDATION:- Refuse

1. In the opinion of the Local Planning Authority the proposed use is inappropriate in the functional floodplain. The site lies within Flood Zone 3b functional floodplain, defined by PPS25, and has a high probability of flooding. The development type is classed as more vulnerable (Table D.2 of PPS25) and therefore is not compatible with this Flood Zone. The use of the building as a pre-

school nursery is considered to be putting children at risk to flooding in the functional floodplain and is considered to be contrary to PPS25.

Officer to contact: **Mrs Jennifer Wallis**

4th October 2010