



DEVELOPMENT COMMITTEE

23 SEPTEMBER 2010

PRESENT:-

Councillors P.M. Chandler (Chairman)
P. Baguley, M. Barnes, G. Botterill, E. Holmes,
J. Illingworth, T. Moncrieff, M. Sheldon, J. Wyatt

As Observer
Councillor O'Callaghan

Head of Regulatory Services
Principal Planning Officer (JW), Planning Officer (DK), Principal Solicitor,
Planning Policy Officer (PG), Democracy Officer (EG)

D22. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Cumbers and Moore-Coltman.

D23. MINUTES

The Minutes of the meeting held on 2 September 2010 were confirmed and authorised to be signed by the Chairman.

D24. DECLARATIONS OF INTEREST

10/00476/FUL – Crowthorne, Landyke Lane, Scalford
10/00475/FUL – Crowthorne, Landyke Lane, Scalford

Councillor Holmes declared a personal and prejudicial interest in the above applications.

D25. SCHEDULE OF APPLICATIONS

RESOLVED that the undermentioned applications be determined as follows and unless stated otherwise hereunder in the case of permissions subject to the conditions and for the reasons stated in the Schedule of Applications and in the case of refusals for the reasons stated in the schedule.

(1) Application: 10/00055/FUL
Applicant: Melton Meat Limited
Location: Farm Buildings Next To Baytree Farm, Stygate Lane, Pickwell.
Proposal: Conversion and extension of existing farm building to form Abattoir and associated facilities.

(a) The Head of Regulatory Services updated the Committee on the procedural issues. Because of the complexity of the issue an update in writing was circulated to Members which addressed the notice of legal challenge received and also the more conventional update regarding recent representations. The full legal challenge was included to ensure it was understood. Prior to addressing the issues he checked that this was understood and invited any questions for clarification.

Members unanimously agreed to proceed with the consideration of the application.

(b) The Head of Regulatory Services further updated the Committee as follows:

(i) The key issues for the application fell into 2 broad categories: principles and detailed issues

(ii) Firstly, on matters of principle, the site was in a countryside location and was contrary to policy that governed such locations, because of its scale and the amount of works. Therefore, the law allowed permission to be granted if, and only if, there were material considerations that justified stepping outside this policy framework. As contained in the report, and clarified in the Update report, it was considered there were considerations present that were unique to the site, in that the location would reduce vehicle movements arising from transporting sheep from the site to Melton and because of the reservations we had that this form of industry was not ideal for industrial estates.

The core decision for the Committee was a matter of principle and whether it was persuaded that these advantages justified a departure from normal policy requirements.

(iii) Secondly, consideration of a whole series of detailed issues. Some of those related to Members assessment of the building and from the site inspection and how it would affect the area, but a series (traffic, waste disposal, protected species, lighting etc.) were largely dependent on whether they could be adequately controlled by conditions (shown on the back of the report and the update report).

(c) Mr Simon Mansfield was invited to speak on the application and stated that:-

- The application sought to produce an individual development in the middle of the countryside which was contrary to the Local Plan

- It was an industrial site – farm generators etc.
- Development would involve a major reconstruction of the buildings and would therefore be a breach in policy
- The proposed extensions were not in keeping with the scale and height of the existing buildings
- The 1995 planning permission required the buildings to be cut into the ground to reduce visual impact however the buildings stood on built up land which was more prominent
- Permission for the farm was allowed only based on agricultural need
- The buildings would be a breach of the terms of their original planning permission
- The odour and the HGV traffic generated would not be acceptable in a rural location in close proximity to residential properties
- There were better locations for the abattoir such as the old mining site on Asfordby Road
- There was no need for a commercial development in the area
- The facility did not have the capacity to accommodate the volume of effluent the abattoir would produce
- The development may harm protected species
- It was not a Melton specific business and there was no need to locate in Stygate Lane
- The alternative facility at Six hills had offered their facilities to the applicant
- The sheep would be kept in animal pens and barns not in fields
- It would only be logical and lawful to reject the proposal

(d) A representative from Somerby Parish Council was invited to speak on the application and stated that:-

- The was the 2nd time that the application had come before the Committee
- The application when submitted should have contained details of waste disposal and must be a condition of any approval
- A number of residents expressed differing views. The village was divided
- There would be an odour problem for residents of Pickwell which must be addressed
- Traffic must not travel to Bay Tree Farm via Pickwell
- When the farm was approved the engineering conditions were loose and they did not want a repeat of those circumstances.

(e) Mr Prichard was invited to speak on the application and stated that:-

- He endorsed the advice given by the officers about the possible legal challenge
- He had the opportunity to consider the letter and considered no issues were arguable by law
- There was no weight that the report was seriously flawed
- The report was robust and fair
- He considered the conclusions and resolutions were sound
- The matters raised in the application deferred in April were now addressed
- The development related to the conversion of existing buildings

- The development was limited in scale
- The existing highway network was good
- The Committee report showed all technical reports were now resolved
- He hoped Members would endorse the recommendations

The Head of Regulatory Services stated that:-

- In response to Mr Prichard, whilst elements of the existing building remained, for the most part it was now a new building.
- Following the Parish Council's comments on conditions. In terms of effluent which was referred to in the original report, the wording was essentially what he had asked for with regard to Severn Trent.
- Condition 8 of the report stated that all waste arising from the site should be stored and disposed of in such a manner that it did not give rise to a nuisance from smells. Point 3 listed in the update report was concerning specific conditions in relation to smells. It was a fully worked out plan to ensure waste was managed at source.
- With regard to traffic, if it was considered there was a need for signage and this could be added at the Committee's discretion as a condition.
- A requirement not to travel through certain places required a S106 agreement which would need to be taken to the applicant to see if he was in agreement.
- Mr Mansfield's comments regarding the application being discussed at this time, followed legal advice given by a barrister that we should proceed.
- With regard to the position in the Development Plan, he was in agreement but it called for a judgement to be made regarding whether there were reasons that justify setting it aside.
- The application was not predicated on the suggestion that Melton was in need of a fresh abattoir or the location.
- The location in the application offered advantages in terms of the eliminating the transportation of sheep between Baytree Farm and Melton Mowbray. Asfordby mine and other sites suggested would not offer the same advantages.
- The question of need was not considered to be a material to the application.

Councillor Barnes stated:-

- The application was local to him and he considered there were 3 views, those that objected, those that had no opinion and those that supported the application.
- He considered that a decision needed to be made as he was not in favour of a deferral.
- His biggest concern was the pig farm which had changed hands several times.
- Conditions were needed if the application was passed.
- In relation to highways, a S106 agreement was required if approval was granted in order to control traffic.
- The biggest impact, contrary to policy is that it is in the open countryside

- There was a building there already which would not be altered significantly
- It would benefit the local community and was not suitable to be located on an industrial estate.
- Waste would be controlled by the Environment Agency.

Councillor Botterill stated that since the Cattle Market had been rebuilt to house sheep it was the biggest in the area. He considered that the sheep needed to go to a local abattoir in order to meet current Meat Hygiene regulations. He further stated that smells would be avoided with appropriate chilling.

Councillor Botterill moved to permit the application and Councillor Baguley was a seconder for this proposal.

Councillor Holmes stated that the Six Hills facility was ideal as livestock needed to be killed and transported as quickly as possible. She queried the capacity of the other abattoir and if there were two within close proximity. The Head of Regulatory Services stated that need was not part of the application to be considered.

Councillor Illingworth stated that the process at Pickwell was not one that the Six Hills facility could accommodate.

Councillor Moncrieff was concerned about the move away from policy. He agreed with Councillor Barnes that a S106 was appropriate. He considered that despite being a good scheme it would compound the problems of the pig farm and could lead to the industrialisation of a rural area.

Councillor Illingworth stated he was happy to defer in order for conditions and S106 to be finalised. The Head of Regulatory Services stated that conditions should be used where possible however those that could not be met by conditions could be secured by an agreement.

Councillor Chandler considered that the conditions were covered well in the updated paper and the original report.

Councillor Sheldon stated he wanted a S106 to deal with the smell. The Head of Regulatory Services stated that enforcement would be quite easy with the conditions listed in the supplementary report and if the premises did change hands in the future it would need to be adhered to by the new owners as well as the old.

On being put to the vote, the motion to permit was carried with 6 in favour and 2 against.

DETERMINATION: Permit subject to a 106 highway agreement, the conditions in the report together with the additional amendments proposed in the addendum report, including the requirement for signage and the positioning colling machinery on the north elevation.

The proposed abattoir would be located in the open countryside close to the A606. The proposal was considered to be contrary to the

Development Plan due to its scale exceeding the exceptions permitted by Policy OS2 and the extent of rebuilding and extension exceeding those specified in C6. Employment developments outside of the main settlements were generally considered unsustainable within the Development Plan and emerging policy in the LDF. However, it was considered that there were material considerations unique to this proposal that should be balanced against the policy position. The site was considered to benefit from access links to the A606 and also its character made it less suitable for allocated industrial locations. In addition, the proposal would eliminate the need for the transportation of animals from the site (which was used as a 'holding pen') to the abattoir in Melton Mowbray, thus eliminating those vehicle movements, removing the abattoir's contribution to the congestion within Melton town centre and assisting in improving animal welfare standards by reducing the length of animals journeys.

The visual impact was considered to be acceptable given the partial re-use of an existing building and the landscaping proposals and with conditions to control lighting and materials. As such, with appropriate controls (see below), it would meet with the objectives of policies insofar as they related to the protection of the countryside (including those aspects of Policies OS2 and C6). Similarly, inferring from Severn Trent's recommendations that effluent could be accommodated (and with no reason to believe that it could not), conditions could be applied to ensure an appropriate waste and pollution strategy was put in place, which could safeguard the capacity of the proposal and the nature of the operation (in terms of the species to be handled) to ensure it operated on the same basis as it had been submitted and assessed. The application was not 'EA' development under the Environmental Impact Assessment Regulations and with regard to safeguarding protected species there was no indication of their presence, but our expert advisors had nevertheless recommended a condition to protect any encountered during the course of development. .

On balance, it was considered that whilst the proposals could be regarded as contrary to the development plan and emerging policy as set out above, its character was such that it was not ideally suited to locations normally identified for industrial purposes and its location would bring benefits in terms of sustainability (through the reduction of vehicle movements and congestion) which accord with wider policy objectives. On balance it was considered that these considerations outweighed the provisions of the development plan and the proposal was accordingly approved.

(2) Application: 10/00476/FUL
Applicant: Mr K Sellars
Location: Crowthorne, Landyke Lane, Scalford, LE14 4SY
Proposal: Proposed Bungalow

(a) The Principal Planning Officer updated the Committee as follows:

- (i) the application sought planning permission for the erection of an agricultural workers bungalow. The bungalow was to be sited to within the farm holding and was considered to be a substantial 3 bed bungalow. The site was located within the open countryside and had been supported by an agricultural appraisal.
- (ii) since publication of the report a further letter of support had been received. The letter supported the application as it was considered to look after any livestock and attended their needs and was essential to be on site 24 hours a day. The weather was changeable and livestock needed bringing in day and night which was easier if living on the site. The applicant had been farming the land for the last 20 years and the house was needed to assist in day to day activities.
- (iii) the application generated a high level of support and the letter raised no new issues not addressed in the report.
- (iv) the main issue in relation to the application was whether there was an agricultural justification for the creation of a residential dwelling in the open countryside and whether the financial and functional test of PPS7 had been met. It was considered that whilst the applicants attempts to establish his agricultural enterprise were applauded the holding did not justify a permanent dwelling and was considered to fail the functional and financial tests of PPS7. The siting of the dwelling was also considered to have an adverse impact on the rural character of the open countryside.
- (v) accordingly the proposal was recommended for refusal as set out in the report.
- (b) Mr Sellars was invited to speak on the application and stated that:
- He had farmed there for 20 years
 - He was a first generation farmer
 - The bungalow belonged to his wife's mother
 - A challenge to the Will left him and his wife without the bungalow
 - Scalford Parish Council had no objection
 - The farm was kept tidy
 - There had been no complaints from surrounding properties
 - He had lived in the Scalford area over 24 years
 - He had gained permission for a mobile home
 - Last year he built the grain store which had cost over £30,000
 - He must live on site to look after the cattle
 - The farm employed 3 people full time
 - His wife required hospital treatment over the last year
 - She had now recovered and worked on the farm
 - It would cost at least £200,000 to buy a house in Scalford
 - If he had known he would not get the bungalow he would not have invested so much money in the enterprise
 - He could not afford to start again anywhere else
- (c) Councillor Holmes was invited to speak on the application as Ward Councillor and stated that:

- The applicant had been farming for over 20 years
- Melton Borough Council green waste was dealt with on site
- There were no complaints about the small traffic movements
- They contributed to the local economy
- Security was vital when you had bull beef and you needed to be there
- All their crops were recycled through the cattle
- They did well with the cattle and often topped the markets
- They were hard working country people
- The bungalow had an agricultural tie
- The bungalow had not been lived in due to a family argument
- The remains of the bungalow should be condemned and taken down

(Councillor Holmes here left the meeting)

Councillor Botterill stated that he realised the application did not meet the agricultural appraisal but they had a significant green waste business which needed the land to spread it on. This diversification enabled the business to employ 3 workers and invest capital in further expansion. He further stated that the applicant needed to live on site in order to take care of his livestock.

Councillor Botterill moved to permit the application and Councillor Barnes was a seconder for this proposal.

Councillor Moncrieff stated that he understood the reasons to not permit were due to national policy however they were hardworking people and there were mitigating circumstances.

Councillor Illingworth enquired if the waste business had been included as part of the test would it have been passed. The Principal Planning Officer stated that they had applied for an agricultural workers dwelling and therefore the waste business was not looked at.

Councillor Moncrieff suggested that the process should be reviewed in order to fit into the modern world as the cost of £110,000 was what they asked people for when they were looking at affordable homes and he considered this was quite significant.

On being put to the vote, the motion to permit was carried unanimously.

DETERMINATION :- Permit with delegation of conditions to the Head of Regulatory Services, for the following reason:

The proposal lies outside of the Village Envelope where such developments are not considered to be acceptable. The development has not been showed to meet the `functional' test, and `financial' test of PPS7 and has been permitted in this instance, due to the circumstances of the applicant and the nature of the activity on the site. The Council considers that the green waste recycling operations to be make a very positive contribution to the environmental priorities of the Borough and the inter dependency of this with the agricultural operations on the site are considered sufficient justification to depart

from the full provisions of PPS7, in respect of which there is a limited shortfall.

(Councillor Holmes here re-entered the meeting).

(3) Application: 10/00475/FUL
Applicant: Mr K Sellars
Location: Crowthorne, Landyke Lane, Scalford, LE14 4SY
Proposal: Retention of existing mobile home approved 06/07/2007 ref 07/00584/OUT

(Councillor Holmes here left the meeting).

Councillor Botterill enquired if a year was long enough for the restoration. Members suggested retention of the existing mobile for 18 months or upon completion of the bungalow if sooner.

On being put to the vote, the motion to permit was carried unanimously.

(Councillor Holmes here re-entered the meeting).

DETERMINATION:- Permit subject to a timescale of 18 months or upon completion of the bungalow if sooner

(4) Application: 10/00474/FUL
Applicant: Mr Len Bowley
Location: Poplars Farm, Great Dalby Road, Kirby Bellars, LE14 2TN
Proposal: Full permission to restore, occupy and re-use existing farm house and farm buildings.

- (a) The Principal Planning Officer updated the Committee as follows:
- (i) The application sought planning permission for the restoration and reuse of an existing group of farm buildings and farm house within the open countryside.
 - (ii) There were no updates to report on the application.
 - (iii) The application proposed to restore a Georgian dwelling which was in a poor state of repair and was not considered to be capable of habitable use. The application had been supported by the Conservation Officer and the Parish as the buildings were considered to be of historic and architectural merit. However, the residential use was considered to be abandoned and the application would represent a large unrestricted residential property in the open countryside and in an unsustainable location. The issues were finely balanced, however it was considered in this instance that the benefits of retaining a historic asset which was in such a poor state of repair did not outweigh the Development plan and the fundamental objectives of the planning system.

(iv) Accordingly the application was recommended for refusal as set out in the report.

(b) Mr M. Fairhurst was invited to speak on the application and stated that:

- It was not an attempt for planning permission for a new house
- It was to restore a part of Melton's history
- It was an early 19th century farmstead
- The restoration would be viable and affordable
- Planning permission was previously given in 1996 but the business partners did not agree about the restoration
- The business partnership had now been dissolved
- There had been no objections from the Conservation Officer, County Council Building Team and English Heritage
- The proposal was to use the farmstead for what it was originally built for
- There would be no purpose served by refusing
- The property was not detrimental to the appearance and character of the countryside
- It was not unsustainable
- Car journeys would not increase

The Principal Planning Officer stated that approval would go against the creation of a new dwelling without justification and there was clearly no residential use as it had been abandoned for many years. This needed to be balanced against the history and architectural value.

Councillor Holmes stated she considered old buildings should be cared for and that the family would look after it and would turn it into something special for the future.

Councillor Holmes moved to permit the application and Councillor Barnes was a seconder to this proposal.

Councillor Botterill agreed that farmyard architecture was important.

Councillor Illingworth stated that he understood both sides of the argument but the dwelling was not going to have a public use so it would be tenuous to say it was being saved for future generations.

Councillor Moncrieff agreed with Councillor Illingworth and stated that he was concerned that it was contrary to 2 or 3 policies and if accepted, a precedent would be set for similar applications which had been turned down in the past. He agreed with the officers recommendations to refuse.

Councillor Botterill enquired if the field hedgerows could be restored. Councillor Holmes suggested it could be tied in with a restoration programme condition.

On being put to the vote the motion to permit was carried with 6 in favour and 3 against.

DETERMINATION: Permit with the content of conditions delegated to the Head of Regulatory Services, but to include the following:-

- 1. Landscape of enhancement plan**
- 2. Programme of restoration**

For the following reason: The proposed development is considered not to comply with the Development Plan policies in so far as it represents housing in the open countryside and that the building is not capable of residential living in its current form. The restoration of the building for residential use is contrary to the Local Plan but restoration of a heritage asset positively pursues the objectives of PPS5, and would help to secure the future of the building group. The Council therefore consider that, on balance, the restoration and reuse of a former dwelling can be justified as a departure and can be prevented from becoming a precedent for other forms of residential development because of its unique circumstances.

D26. URGENT BUSINESS

The Head of Regulatory Services stated that a training session had been scheduled to take place on Tuesday 5 October 2010 at 6 p.m.

The meeting which commenced at 6.00 p.m. closed at 7.35 p.m.

Chairman