

Agenda

Meeting name	Planning Committee
Date	Thursday, 28 April 2022
Start time	6.00 pm
Venue	Parkside, Station Approach, Burton Street, Melton Mowbray, Leicestershire, LE13 1GH
Other information	This meeting is open to the public

Members of the Planning Committee are invited to attend the above meeting to consider the following items of business.

Edd de Coverly
Chief Executive

Membership

Councillors	P. Posnett MBE (Chair)	M. Steadman (Vice-Chair)
	R. Browne	P. Chandler
	J. Douglas	E. Holmes
	J. Illingworth	D. Pritchett
	R. Smith	T. Webster
	P. Wood	

Quorum: 6 Councillors

Meeting enquiries	Democratic Services
Email	democracy@melton.gov.uk
Agenda despatched	Wednesday, 20 April 2022

No.	Item	Page No.
1.	APOLOGIES FOR ABSENCE	
2.	MINUTES To confirm the minutes of the meeting held on 3 March 2022.	1 - 4
3.	DECLARATIONS OF INTEREST Members to declare any interest as appropriate in respect of items to be considered at this meeting.	5 - 6
4.	SCHEDULE OF APPLICATIONS	
4.1	APPLICATION 21/01213/VAC Land between existing housing on Regency Road and the A6006 Asfordby bypass	7 - 18
4.2	APPLICATION 21/01341/VAC 22/24 Pate Road, Melton Mowbray	19 - 26
4.3	APPLICATION 21/00947/FUL Deben Farm, Scalford	27 - 40
5.	URGENT BUSINESS To consider any other business that the Chair considers urgent	



Minutes

Meeting name	Planning Committee
Date	Thursday, 3 March 2022
Start time	6.00 pm
Venue	Parkside, Station Approach, Burton Street, Melton Mowbray, Leicestershire, LE13 1GH

Present:

Chair Councillor P. Posnett MBE

Councillors

M. Steadman (Vice-Chair)	R. Browne
P. Chandler	J. Douglas
E. Holmes	J. Illingworth
D. Pritchett	R. Smith
T. Webster	

Observers

Officers

- Interim Assistant Director for Planning
- Solicitor (TP)
- Senior Planning Officer (AC)
- Planning Officer (GE)
- Planning Officer (SH)
- Democratic Services Officer (HA)
- Democratic Services Officer (SE)

Minute No.	Minute						
PL74	<p>Apologies for Absence There were no apologies for absence. Councillor Wood was not present.</p>						
PL75	<p>Minutes The minutes of the meeting held on 3 February 2022 were confirmed as a true record.</p>						
PL76	<p>Declarations of Interest Councillor Posnett held a standing personal interest in any matters relating to the Leicestershire County Council due to her role as a County Councillor.</p>						
PL77	<p>Schedule of Applications It was advised that agenda item 4.3 (Minute PL80 - Heckadeck Lane, Nether Broughton) had been withdrawn due to information being awaited from Leicestershire County Council.</p>						
PL78	<p>Application 21/00939/REM</p> <table border="1" data-bbox="288 969 1441 1184"> <tr> <td data-bbox="288 969 504 1014">Application:</td> <td data-bbox="504 969 1441 1014">21/00939/REM</td> </tr> <tr> <td data-bbox="288 1014 504 1059">Location:</td> <td data-bbox="504 1014 1441 1059">St Mary's Hospital, Thorpe Road, Melton Mowbray. LE13 1SJ</td> </tr> <tr> <td data-bbox="288 1059 504 1184">Proposal:</td> <td data-bbox="504 1059 1441 1184">Approval of the details of the layout, scale, external appearance of the buildings and landscaping of the site, pursuant to Condition 3 of Outline Planning Permission 19/00909/OUT</td> </tr> </table> <p>The Planning Officer (GE) addressed the Committee and provided a summary of the application and advised that there had been no adverse comments relating to heritage or on highway safety. The application was recommended for approval.</p> <p>The Planning Officer responded to Member queries as follows:</p> <ul data-bbox="288 1487 1417 1704" style="list-style-type: none"> • There were terraced and semi-detached homes on the site • Issues relating to highways matters had been resolved • There was a previous permission for the vagrant cells to be demolished and part of the building materials were to be used as a memorial. This was a reserved matter which would be presented back to a future meeting of the Committee <p>There were no public speakers.</p> <p>During discussion the following points were noted:</p> <ul data-bbox="288 1921 1477 2067" style="list-style-type: none"> • There was concern for the commemoration of the vagrant cells on the site and it was considered the previous decision should be referenced as to the detail of such a memorial • It was felt that the vagrant cells were of significant historic importance and must 	Application:	21/00939/REM	Location:	St Mary's Hospital, Thorpe Road, Melton Mowbray. LE13 1SJ	Proposal:	Approval of the details of the layout, scale, external appearance of the buildings and landscaping of the site, pursuant to Condition 3 of Outline Planning Permission 19/00909/OUT
Application:	21/00939/REM						
Location:	St Mary's Hospital, Thorpe Road, Melton Mowbray. LE13 1SJ						
Proposal:	Approval of the details of the layout, scale, external appearance of the buildings and landscaping of the site, pursuant to Condition 3 of Outline Planning Permission 19/00909/OUT						

- be taken into account before agreeing detailed development on the site
- Members considered that they could not determine this application without understanding the commemoration arrangements for the vagrant cells and a deferral would enable this information to be supplied alongside this application
 - Although it was explained that the site included a large area of landscaping at the entrance to the site, it was not known whether this was to be used for the memorial
 - It was felt reassurance was needed on the commemoration before this application could be determined to ensure that an appropriate location and prominence was allocated
 - It was felt that any open space should not be sacrificed due to a mistake
 - The Interim Assistant Director for Planning and Delivery recommended that the application be deferred to enable Members' concerns to be fully explored before bringing the application back for determination

Councillor Smith proposed that the application be deferred to enable the intentions around the location and prominence of the vagrant cells commemoration to be provided to Members before there was commitment to the layout of this development. Councillor Holmes seconded the motion.

RESOLVED

That the application be DEFERRED to enable the intentions around the location and prominence of the vagrant cells commemoration to be provided to Members before this application could be considered.

(Unanimous)

PL79

Application 21/01309/TPO

Application:	21/01309/TPO
Location:	St Thomas A Becket's Church, Church Lane, Frisby on the Wreake, LE14 2NQ
Proposal:	T1 Lime - lift and cut back to clear school building

The Planning Officer (SH) addressed the Committee and provided a summary of the application and advised that the wall would be rebuilt. She advised there had been concerns raised about bats in the tree and an advisory note had been provided for work on the tree with specific times set out so as to not disturb the bats. The application was recommended for approval.

The Planning Officer responded to Member queries as follows:

- With regard to a requirement for mitigation arrangements of any bat colony, the officer responded that bat boxes would be provided and if bats were present then work on the tree would stop. However it was considered the work was minor and therefore would not impact on the bats.

There were no public speakers.

During discussion the following points were noted:

- The Ward Councillor advised that it had taken 10 years to get to this stage and the Parish Council and Conservation Officer had been reassured the work could be carried out safely. The adjoining wall provided a health and safety risk to children near the school. It was clarified that the application was to prune and cut back the overhanging tree rather removal. The work would ensure the wall could be rebuilt and therefore remove the risk to those using the adjoining public footpath
- As this was a closed churchyard, Melton Borough Council was responsible for the rebuilding of the wall

Councillor Steadman proposed that the application be approved. Councillor Illingworth seconded the motion.

RESOLVED

That the application be APPROVED.

(9 in favour, 1 abstention)

REASONS

The works proposed are modest and are deemed acceptable in order to maintain the tree.

The works are part of a maintenance programme to ensure the tree remains healthy and does not compromise the public footpath running alongside.

(Councillor Browne advised he had abstained from voting as he was the Ward Councillor.)

PL80	Application 15/010109/OUT - Deed of Variation This item was withdrawn from the agenda.
PL81	Urgent Business There was no urgent business.

The meeting closed at: 6.29 pm

Advice on Members' Interests

PERSONAL AND NON-PECUNIARY INTERESTS

If the issue being discussed affects you, your family or a close associate more than other people in the area, you have a personal and non-pecuniary interest. You also have a personal interest if the issue relates to an interest you must register under paragraph 9 of the Members' Code of Conduct.

You must state that you have a personal and non-pecuniary interest and the nature of your interest. You may stay, take part and vote in the meeting.

PERSONAL AND PECUNIARY INTERESTS

If a member of the public, who knows all the relevant facts, would view your personal interest in the issue being discussed to be so great that it is likely to prejudice your judgement of the public interest and it affects your or the other person or bodies' financial position or relates to any approval, consent, licence, permission or registration then **you must state that you have a pecuniary interest, the nature of the interest and you must leave the room***. You must not seek improperly to influence a decision on that matter unless you have previously obtained a dispensation from the Authority's Audit and Standards Committee.

DISCLOSABLE PECUNIARY INTERESTS AND OTHER INTERESTS

If you are present at any meeting of the Council and you have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting, if the interest is not already registered, you must disclose the interest to the meeting. You must not participate in the discussion or the vote and you must leave the room.

You may not attend a meeting or stay in the room as either an Observer Councillor or *Ward Councillor or as a member of the public if you have a pecuniary or disclosable pecuniary interest*.

BIAS

If you have been involved in an issue in such a manner or to such an extent that the public are likely to perceive you to be biased in your judgement of the public interest (bias) then you should not take part in the decision-making process; you should leave the room. **You should state that your position in this matter prohibits you from taking part.** You may request permission of the Chair to address the meeting prior to leaving the room. The Chair will need to assess whether you have a useful contribution to make or whether complying with this request would prejudice the proceedings. A personal, pecuniary or disclosable pecuniary interest will take precedence over bias.

In each case above, you should make your declaration at the beginning of the meeting or as soon as you are aware of the issue being discussed.*

*There are some exceptions – please refer to paragraphs 3.12(2) and 3.12(3) of the Code of Conduct

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21/01213/VAC to Vary conditions 20 'Details of Open Space' and 21 'Maintenance and management of Open Space', to remove reference to play areas attached planning permission ref.16/00539/OUT at Field OS 6934 Bypass Road Asfordby

Corporate Priority:	Delivering sustainable and inclusive growth in Melton
Relevant Ward Member(s):	Councillor Ronnie de Burle & Councillor Steve Carter
Date of consultation with Ward Member(s):	3 November 2021
Exempt Information:	No

1 Summary



1.1 The application site is currently an area of open land between existing housing on Regency Road and the A6006 Asfordby bypass. Trees and hedge screening runs along

the northern boundary with Bypass Road. The site is accessed from Saxleby Road close to the village primary school. The approved scheme includes a further pedestrian access provided at the eastern end of the site onto Regency Road and there are some areas of public open space, including a surface water swale associated with a Sustainable Urban Drainage system (SUDs). There is a mix of 2 and 3 bedroomed dwellings across the site with on plot parking of a minimum two parking spaces. Some properties also have garages.

- 1.2 The approved scheme provides on-site affordable housing of 65% which is in excess of the policy requirement. Various financial contributions towards infrastructure were secured by the S106 agreement at outline stage, but this did not include play equipment or a play area.
- 1.3 The principle of residential development within the site has been established by outline planning permission ref. 16/00539/OUT and subsequent reserved matters application ref. 19/01291/REM. This application is an amended scheme which seeks to vary conditions 20 'Details of Open Space' and 21 'Maintenance and management of Open Space', attached to planning permission ref.16/00539/OUT. Specifically, it seeks to remove reference to play areas and play equipment within these conditions. There would be no change to the total amount of open space provided within the site.
- 1.4 The proposal was amended to omit the removal of condition 14 which requires the provision of new bus stops on Regency Road. It was demonstrated by the Local Highway authority (LHA) that the bus route still passed along Regency Road, and therefore condition 14 remains relevant.

RECOMMENDATION(S)
1. It is recommended the application is approved, subject to: (i) Conditions as set out in Appendix C

2 Reason for Recommendations

- 2.1.1 The principle of residential development on the site, and the access, has been established by planning permission ref.16/00539/OUT. Details of the site's appearance, landscaping, layout and scale were approved under planning permission ref.19/01291/REM. A number of conditions attached to these permissions have been discharged. This application seeks to vary conditions 20 and 21 attached to the outline planning permission ref.16/00539/OUT, specifically the removal of any reference to play areas and play equipment. The main consideration for this application is whether or not these conditions remain relevant or reasonable.
- 2.1.2 The indicative plans submitted as part of the outline application included areas of open space and the supporting documents referenced the provision of an equipped play area. It is also recognised that the Parish Council have expressed a desire for an equipped play area to be provided within the site. At the time planning permission was granted Melton Local Plan saved policy H11 formed part of the development plan. Policy H11 provides that planning permission will not be granted for residential development of 15 or more dwellings unless it makes provision for playing space in accordance with the Councils standards. At Appendix 6 of this Local Plan (on developments of 50 or more dwellings, every dwelling must be within a 5 minutes walk (240m straight line distance) of a LEAP (Local Equipped Area for Play). This policy has been superseded by Local Plan Policy

EN7 'Open Space, Sport and Recreation' which requires contributions towards open space, sport and recreation where there are identified local deficiencies.

- 2.1.3 It should be noted that the overall level of open space provided within the site would remain unchanged under the current proposal, and although it would not be defined formally as a LAP, a flat, grassed area would be provided within the site bounded by timber bollards which could be used as an informal play space for young children. Other small areas of open space would be provided to the north of the spine road which would provide for informal social interactions. Following the adoption of the Local Plan, policy EN7 superseded saved policy H11. Policy EN7 'Open Space, Sport and Recreation' sets a different threshold for the provision of play areas as part of residential schemes. It requires the provision of play areas on developments of 10 houses or more where there is an identified local deficiency. There are no identified local deficiencies for play areas or play equipment within Asfordby, and for this reason there is very limited planning policy justification for the provision of a play area or play equipment within the site. Therefore the principle of the development is supported by Local Plan policy EN7 and on balance it is considered that the reference to the provision of a play area or play equipment in conditions 20 and 21 are no longer relevant to the development permitted, or reasonable in all other respects.
- 2.1.4 Appendix B of this report sets out the suggested conditions, these are numbered slightly differently to the conditions attached to planning permission ref.16/00539/OUT. The numbering has altered as the time limit condition for the implementation of the development and the submission of a reserved matters application is no longer considered necessary, also other details required at the outline stage have been submitted and agreed which has reduced the number of archaeology conditions required from 3 to 2. As a result conditions 20 and 21 attached to planning permission 16/00539/OUT are numbered 18 and 19 in Appendix B.

3 Key Factors

3.1 Reason for Committee Determination

- 3.1.1 The Director for Growth and Regeneration (in consultation with the Chair of Planning Committee) considers this application as likely to raise matters which should be referred to the Committee.

3.2 Relevant Policies

- 3.2.1 The Melton Local Plan 2011-2036 was adopted on 10th October 2018 and is the Development Plan for the area. The relevant policies are outlined in Appendix C however, Policy EN7 'Open Space, Sport and Recreation' is considered to be particularly relevant.
- 3.2.2 The Local Plan is up to date and consistent with the latest revised versions of Government Guidance as contained in the National Planning Policy Framework.
- 3.2.3 The Design of Development Supplementary Planning Document (SPD) was adopted on 24th February 2022. It forms part of the Development Plan.
- 3.2.4 The Asfordby Neighbourhood Plan is at the early stages of the adoption process and can therefore be afforded very limited weight.

3.3 Main Issues

- 3.3.1 As set out in the National Planning Practice Guidance para.55 the purpose of planning conditions are to enhance the quality of development and enable development to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects.
- 3.3.2 Paragraph 56 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests set out in para.57:
1. necessary;
 2. relevant to planning;
 3. relevant to the development to be permitted;
 4. enforceable;
 5. precise; and
 6. reasonable in all other respects.
- 3.3.3 Section 73 of the 1990 Town and Country Planning Act allows applicants to make: "applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted".
- 3.3.4 Where an applicant makes a Section 73 application the Local Planning Authority is only permitted to consider the question of the conditions attached to the planning permission. If the application is granted, then the developer has two planning permissions which could be implemented and developed out. If the application is refused the developer still has the benefit of the original planning permission.
- 3.3.5 The key point is that an amendment must be able to be facilitated through the variation or deletion of a condition. The main issues for the consideration of this application therefore are the reasonableness and the relevance of the provision of a play area or play equipment within the application site.
- 3.3.6 Consideration will be given to the quality of the open space proposed within the development with the equipped play area removed, in terms of its impacts and benefits for residential amenity. The visual quality and safety of the play equipment given that it was not possible to find long term provision for the play equipment. As well as changes to planning policy, in particular the Development Plan following the adoption of the Local Plan on the 10th October 2018.

4 Report Detail

4.1 Position under the Development Plan Policies

- 4.1.1 The site is located on the northern edge of the main built up area of the settlement of Asfordby, and is an allocated site for residential development.
- 4.1.2 Policy C1 (A) 'Housing Allocations' provides for new housing to be delivered within the Local Plan on sites including the application site, referenced as ASF2. There is no requirement set out in Local Plan Appendix 1 'Site allocations and policies planning policy' for the provision of a play area or play equipment within the application site.

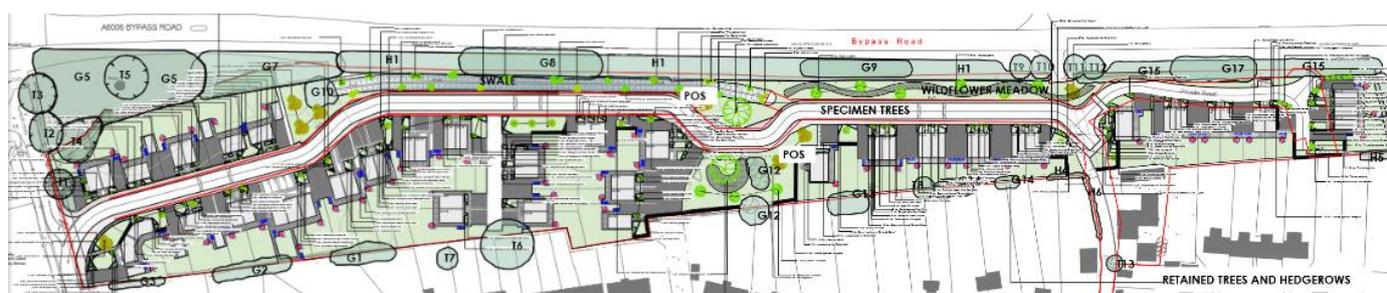
4.1.3 Reasonableness and relevance

- 4.1.4 The provision of an equipped play area within the site was secured by planning conditions 20 'Details of Open Space' and 21 'Maintenance and management of Open Space' attached to planning permission ref.16/00539/OUT. The reason provided for the inclusion of condition 20 was: "To ensure the provision of adequate public open space" and for condition 21: "To ensure the future maintenance of public open space."
- 4.1.5 The provision of a play area was referenced in the outline application both in the Design and Access Statement which states: "The majority of the public amenity space is within the enhanced landscape buffer along the northern boundary with additional play area in the centre of the site alongside the pedestrian link path to the village." And in the Planning Statement: "Saved Policies H10 and H11 of the Adopted Melton Local Plan set out amenity space and playing space requirements. The submitted illustrative master plan shows how a small play area and other public amenity areas can be provided."
- 4.1.6 The Parish Council requested the provision of an equipped play area in their comments submitted to the outline application, in response to this the Committee Report states: "the application includes the provision of an equipped play area." The provision of an equipped play area therefore formed part of the consideration for the outline planning application and the fact that its provision was secured by a planning condition, condition 20, indicates that it was deemed necessary at the time to make the scheme acceptable in planning terms, in accordance with Local Plan Policy H11.
- 4.1.7 Policies relevant at the time of the outline application included, the now superseded, Local Plan Policy H11 which required developments of 15 or more dwellings to make provision for playing space in accordance with standards contained in Appendix 6. Appendix 6 required developments of 15 or more dwellings to include a Local Area for Play (LAP) within a 1 minute walk (60m straight line distance) of dwellings on the site and extend to a minimum area of 400 sqm and on developments of 50 or more dwellings, every dwelling must be within a 5 minutes walk (240m straight line distance) of a LEAP (Local Equipped Area for Play). The Draft Asfordby Neighbourhood Plan was also considered relevant at the time. Policy A22: 'Children's Play Areas' states: "*Local Areas for Play (LAP), normally small landscaped areas of open space designed for young children (under 6's), should be provided on new developments of ten or more dwellings. All homes on the development should be within five minutes safe walking time of a LAP, so on large developments more than one LAP may need to be provided. The design of LAPs should provide for a safe and attractive play area while encouraging the development of social skills. Their design should also aim to reduce the use by unintended visitors.*"
- 4.1.8 Policy H11 has subsequently been superseded by Local Plan Policy EN7 'Open Space, Sport and Recreation' which requires provision for children and young people (0.13ha/1000 population) where there are identified local deficiencies. As outlined in the 'Melton Space Study Open Space Assessment Support' (2014) current provision for children and young people is 0.13ha/1000 population in the 'Central Area', which includes Asfordby. It is therefore considered that there are no identified local deficiencies for play spaces for children in Asfordby.
- 4.1.9 The Draft Asfordby Neighbourhood Plan is useful in that it identifies the following existing equipped play areas in the plan area: Glendon Close, Asfordby, Jubilee Park, Asfordby, Brook Crescent, Asfordby Valley, and Compton Park, Asfordby Hill. Also at para. 7.22 in

the supporting text for Policy A15 'Children's Play Areas' it states: "The new housing developments we are planning are well located in relation to existing play areas." The application site is one of the new housing developments referred to. The centre of the application site is located approximately 600m from the equipped play area Jubilee Park, Asfordby and 650m from the equipped play area off Glendon Close, Asfordby.

4.1.10 The Fields Trust's guidance 'Guidance for Outdoor Sport and Play Beyond the Six Acre Standard' is referenced in the explanatory text for Policy EN7 at para.7.12.2. It sets out a number of benchmark guidelines including at Table 2 'Recommended Application of Quantity Benchmark Guidelines – Equipped/Designated Play Space' which advises developments of 11-200 dwellings should provide for a LAP and/or a LEAP, minimum sizes for these provisions are set out in table 4. Table 1 of the guidance sets out walking guidelines from houses to LAPs of 100m and LEAPs of 400m. These standards would have been applied had there been an identified local deficiency in Asfordby. The detailed landscaping plans submitted at the reserved matters stage did not include a play area, and no reference is made to a play area or play equipment in the submission. However, reference is made in the planning statement to the provision of small areas of open space to be used for informal social interaction. The Applicant has indicated that during pre-application discussions, prior to the submission of the reserved matters application, it was "decided a development of this size did not, in itself, have enough scale to warrant formal play equipment and it was not considered reasonable for East Midlands Housing (EMH) to pay to maintain the play area for the benefit of the rest of the village. The question was then raised to the parish over whether they, or Melton Borough, were willing to adopt the play equipment. Neither organisation was willing to do so and therefore, it was agreed to not include any play equipment on the site." Unfortunately there is no written record of this meeting however, the local councillor, Cllr. de Burle, agrees with the applicant that a requirement for a play area to be provided within the site was removed at an early stage of the planning application process. The question of adopting the play area has again been put to the Parish Council and Cllr de Burle, as chair of the Parish Council, has confirmed that the Parish Council would not wish to take on ownership or liability for an equipped play area within the site.

4.1.11 The proposal does not include a reduction in the overall level of open space provided within the site. In the space shown as a play area on the indicative plans submitted at the outline stage is a small area of open space bounded by timber bollards, protecting it from unintended users. The area would be level and mainly laid to grass with wildflower planting below a central tree canopy, and although it would not formally be provided as a play area it could be used by young children as an informal play space. The Applicant has confirmed that there are no limitations on the use of the open space within the site and they do not intend to do so.



4.1.12

- 4.1.13 The principle of the landscaping scheme was established under planning permission ref. 19/01291/REM, it was considered to enhance the visual amenity of the area, as well as provide biodiversity enhancements. An application to discharge condition 7 attached to this permission including details of all soft landscaping proposed on the completed development, including plant species, sizes and densities has been submitted under planning application ref. 20/01369/DIS. It is noted that both the County Council Ecology and Forestry departments are supportive of the proposed scheme.
- 4.1.14 .Although the proposal would not provide a formal LAP or LEAP it would provide small pockets of open green space along the spine road serving the application site. The areas of open space to the north of the spine road would be bounded by 1.2m high post and rail fencing including pedestrian gates. They would also provide opportunities for social interaction and for play, promoting social cohesion within the application site.

5 Consultation & Feedback

- 5.1 A site notice was posted on 09.11.2021 with responses due by 30.11.2021 with the proposal also being advertised in The Melton Times and letters sent to the immediate neighbours of the site and all contributors to planning application ref.19/01291/REM. No letters have been received from these households.

6 Financial Implications

- 6.1 No financial implications have been identified.

Financial Implications reviewed by: N/A

7 Legal and Governance Implications

- 7.1 No legal or governance issues have been identified.

Legal Implications reviewed by: Tom Pickwell (Solicitor)

8 Background Papers

- 8.1 Committee report for planning application ref. 16/00539/OUT
8.2 Committee report for planning application ref. 19/01291/REM

9 Appendices

- 9.1 A: Consultation responses
B: Recommended Conditions
C: Applicable Development Plan Policies
D: Site Photographs

Report Author:	Helen White , Planning Development Officer
Report Author Contact Details:	01664 502419 helenwhite@melton.gov.uk
Chief Officer Responsible:	Paul Feehily , Interim Assistant Director for Planning
Chief Officer Contact Details:	01664 502418 pfeeihly@melton.gov.uk

Appendix A : Summary of Statutory Consultation Responses

The Ward Councillor: Cllr. de Burle, in summary, supports the application in relation to the removal of condition 14, based on the supporting information. However, he is unable to support the changes to conditions 20 (open space and play equipment), and item 21 (maintenance and management of open space and play equipment) without more clarity on what is being proposed or intended. Open space and its maintenance on a small development like this one, is of high importance, in a village environment, and play equipment equally so. He does not believe any change to these conditions should be allowed without full and open dialogue, and most certainly not as a delegated decision.

Parish Council: In summary the Parish Council agreed unanimously to object because the council and parishioners only supported the development in the first place because of this provision.

LCC Highways as the Local Highway Authority (LHA): The Highway Authority objected to the removal of condition 14, in summary, on the grounds that there is still a bus service registered to route along Regency Road and therefore the LHA cannot agree to the removal of the condition.

Appendix B : Recommended Conditions

1. The development shall be carried out in accordance with the reserved matters including details of the layout, scale, external appearance of the buildings, and the landscaping of the site approved under planning permission ref.19/01291/REM
2. The reserved matters as required by condition 1 above, shall provide for a mixed of types and sizes of dwellings that will meet the area's local market housing need.
3. The development shall be carried out in accordance with the approved material schedule no.3739-60 Rev.D submitted on 15th October 2020.
4. A Landscape Management Plan, including a maintenance schedule and a written undertaking, including proposals for the long term management of landscape areas (other than small, privately occupied, domestic garden areas) shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner.

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. The approved surface water drainage scheme: 'Technical Note: Discharge of Planning Conditions 5 & 7 November 2010 ref.21511-01-TN-01a' submitted on 18 November 2020 shall be fully implemented and subsequently maintained, in accordance with the timing and phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing by the local planning authority.
7. Prior to the first occupation of the development the approved acoustic fencing, and any other physical noise mitigation features detailed on drawing no.3739-52 Rev.B submitted on 10 March 2020 and 2019-PL1-02 submitted on 19 November 2020 shall be fully implemented and retained for the lifetime of the development.
8. The development shall be carried out in accordance with the approved details and timetable set out in the Construction Management Plan received on 6 August 2020, tracking and visibility drawing no.21511_03_110_03 received on 18 August 2020, Construction Method Statement v 1.4 received on 21 August 2020, and Temporary Access drawing 21511_03_020_02 rev.B received on 21 August 2020.
9. Notwithstanding MEC drawing 21151_08_020)01 revision A appended as Appendix H within the submitted Transport Statement, the entire extent of forward visibility shall fall within existing or prospective adopted highway as detailed in the approved 'Section 278 Road Setting Out Plan' drawing no.21511_03_050_01 Rev.A submitted to the Local Planning Authority on 1 September 2021.
10. The existing field vehicular accesses that become redundant on Saxelby Road and Regency Road as a result of the development shall be closed permanently and the existing vehicular crossings reinstated in accordance with a scheme that shall be first submitted to and approved in writing by the Local Planning Authority within one month of the new site access being brought into use.
11. There shall be no vehicular through routes from the development site onto Regency Road; the sole point of vehicular access shall be on Saxelby Road
12. Traffic Calming Scheme in the vicinity of Captain's Close Primary School on Saxelby Road shall be implemented in accordance with the approved scheme as detailed in amended drawing no.21511_03_080_01B and The Road Safety Audit submitted on 21 October and 19 January 2021.
13. Prior to first occupation, the nearest pair of bus stops shall be upgraded to include flags, poles and information display case on Regency Road the details of which shall be first submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details.
14. No development shall take place until a scheme for protecting the occupants of the

proposed development from noise from the A6006 By-Pass Road has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed prior to the first occupation of the development and shall thereafter be retained.

15. No demolition/development shall take place other than in accordance with the Archaeological Desk Bases assessment by Border Archaeology dated April 2019, Written Scheme of Investigation by Border Archaeology dated April 2019, and Archaeological Field evaluation by Border Archaeology dated September 2019.
16. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation by Border Archaeology dated April 2019; and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
17. All development to be in accordance with the recommendations of the Ecological Appraisal and Protected Species Survey.
18. No development shall take place until a scheme for the provision of all open space has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include details of the laying out and construction of the open space and a timetable for its provision.
19. No development shall take place until details of the implementation, maintenance and management of the open space provided in accordance with condition 18 above has been submitted to and approved in writing by the Local Planning Authority. The provision of the open space shall be implemented and thereafter managed and maintained in accordance with the approved details.

The details of the scheme shall include:

- a) a timetable or its implementation; and
- b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by a public body or statutory undertaker, or any other arrangements to secure the maintenance of the open space throughout its lifetime.

The reasons for the conditions are:-

1. The application is in outline only.
2. To ensure that the housing needs of the borough are met.
3. To ensure the external appearance of the development is acceptable.
4. To ensure that due regard is paid to the continuing enhancement and preservation of amenity afforded by landscape areas of communal, public, nature conservation or historical significance.
5. To provide a reasonable period for the replacement of any planting.
6. To prevent flooding by ensuring the satisfactory storage of and disposal of surface water

from the site.

7. To ensure that these features are integrated into the overall design and layout of the site.
8. To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard to road users, and to ensure that construction traffic/site traffic associated with the development does not lead to on-street parking problems in the area.
9. In the interests of highway safety.
10. To protect footway users in the interests of pedestrian safety, and to reduce the number of vehicular accesses to the site to reduce the number of potential conflict points.
11. In the interests of highway safety and to reduce the number of vehicular accesses to the site to reduce the number of potential conflict points.
12. In the interests of highway and pedestrian safety on Saxelby Road.
13. To provide improved public transport facilities to encourage modal shift and to inform new residents of the nearest bus services.
14. In order to control the noise in the interest of residential amenity.
15. To ensure satisfactory archaeological investigation and recording.
16. To ensure satisfactory archaeological investigation and recording.
17. In the interests of the ecology of the area.
18. To ensure the provision of adequate public open space.
19. To ensure the future maintenance of public open space.

Appendix C : Applicable Development Plan Policies

Melton Local Plan

SS1 – Presumption in favour of sustainable development

SS2 – Development Strategy

C1 (A) – Housing Allocations

C2 – Housing mix

C4 – Affordable Housing Provision

D1 – Raising the standard of Design

EN1- Landscape

EN2 – Biodiversity and Geodiversity

EN6 – Settlement character

EN9 – Low Carbon and Energy Efficiency

EN11 – Minimising the risk of Flooding

EN12 – Sustainable Drainage Systems

ASF2 – Asfordby Housing Allocation

IN2 – Transport, accessibility and parking

Draft Asfordby Neighbourhood Plan

A5: Water Management

A6: Biodiversity

A8: Design

A13: Affordable Housing

A15: Children’s Play Areas

A17: Infrastructure



Helping people | Shaping places



Planning Committee

28 April 2022

Report of: Interim Assistant Director for Planning

21/01341/VAC - 22/24 Pate Road, Melton Mowbray - Removal of Condition 3 - (Noise levels) of application 19/00165/COU dated 26/07/2019

Applicant CrossFit Panic: Mr Lewis Wardle

Agent - Hayward McMullan Architects Ltd: Mrs Laura McMullan

Corporate Priority:	Delivering sustainable and inclusive growth in Melton
Relevant Ward Member(s):	Pat Cumbers (Melton Dorian)
Date of consultation with Ward Member(s):	10 December 2021
Exempt Information:	No

1 Summary



- 1.1 The application relates to a gym known as CrossFit Panic, located at Pate Road within the Leicester Road Industrial Estate and occupies Units 24-26. Positioned to the far south east corner and edge of the business park, there are occupied units north, east and west of the site. To the south beyond the dense boundary hedge is Kirby Lane highway.
- 1.2 This application seeks to remove condition 3 of planning permission 19/00165/COU which stated: " The LAeq,15min from amplified audio used on the premises pursuant to this permission shall not exceed background levels (LA,90) when measured at a point 1m from the façade of any neighbouring premises."
- 1.3 Application 19/00165/COU was itself a retrospective application approved by committee for the change of use from a 'Class B1(b)' industrial activity to a gym which would fall within 'class D2' Leisure and Assembly and operates 7 days a week Monday – Friday 6:30am – 8:00pm and Weekends 10am -1pm

RECOMMENDATION(S)

1. It is recommended the application APPROVED subject to conditions in Appendix A
--

2 Reason for Recommendations

- 2.1 The changes within the Town and Country Planning Act, Use Classes Order in England (from 1 August 2021) would deem the use of these units as a gym to be 'Permitted Development' and would not therefore require express permission from the Local Planning Authority, which would allow such changes of use to occur without the imposition of planning conditions such as this, whilst some limitation still remains for residential areas through the submission of Prior Notification, no such allowance is made for commercial sites such as this.
- 2.2 Therefore, the condition is considered no longer reasonable given the government's latest legislation to allow these changes to take place as 'Permitted Development', the removal of the condition is further considered acceptable due to the site surroundings being commercial in nature and sat amongst other businesses uses that would give rise to some element of background noise and amenity issues that are associated within an industrial estate of this nature.
- 2.3 Appendix A of this report sets out the suggested conditions, these are reduced from the planning permission 19/00165/COU. Conditions have been removed due to the time limit for the implementation of the development is no longer considered necessary, also other details required at the Change of Use stage have been implemented but are required to be retained as part of this proposal. Condition 6 of planning permission 19/00165/COU removed Permitted Development Rights for the use to be further changed, this condition is also no longer considered necessary for the reasons associated to the change in legislation as referenced within this report.

3 Key Factors

3.1 Reason for Committee Determination

The Director for Growth and Regeneration (in consultation with the Chair of Planning Committee) considers this application as likely to raise matters which should be referred to the Committee, specifically that the condition concerned was imposed by the Committee (see details provided at paragraph 1.2 above).

3.2 Relevant Policies

- 3.2.1 The Melton Local Plan 2011-2036 was adopted on 10th October 2018 and is the Development Plan for the area
- 3.2.2 No inconsistency with the NPPF has been identified that would render Local Plan policies out of date.
- 3.2.3 A full list of applicable policies is included as Appendix D

3.3 Main Issues

- 3.3.1 Whether the condition remains necessary, relevant to planning, relevant to the development permitted, enforceable, precise and reasonable in all other aspects.
- 3.3.2 Whether the condition is required to protect the amenity of neighbouring units

4 Report Detail

4.1 Position under the Development Plan Policies

- 4.1.1 The issue subject to this application relates to Local Plan Policy D1 - 'Amenity of neighbours and neighbouring properties should not be compromised' and The NPPF Chapter 12 also states that 'development should seek to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users', both of which seek amongst other considerations, that development should not unacceptably reduce the amenities of neighbouring properties by virtue of noise.
- 4.1.2 The NPPF goes on to advise that proposed development that accords with an up to date Local Plan should be approved, and proposed development that conflicts with it should be refused unless other material considerations indicate otherwise.

4.2 Relevant Planning History:

- 4.2.1 The permission for the use of the unit as a gym is related to premises that are part of an industrial estate and employment site identified within the Melton Local Plan for employment uses (within Classes B1, B2 and B8 of the Use Classes Order).
- 4.2.2 The original application was not fully compliant with the Local Plan Policy EC3, which seeks to retain Class B uses at this location, however, consideration was given to the specific circumstances and history of this particular case, balancing any harm for its retention with the aim to support existing local businesses
- 4.2.3 Despite the industrial nature and associated noises of the surrounding businesses, consideration was given to concerns raised from the occupants of the neighbouring unit around noise issues arising from this particular use although there is no legislation regarding noise levels affecting commercial premises (i.e. in the manner that residential property is protected from nuisance). Environmental Health investigated the concerns raised at the time and although unusual within the context of the site, were satisfied such noise levels could be controlled by way of a planning condition.
- 4.2.4 In conclusion, the Planning Committee agreed, having balanced out all the relevant material issues, the leisure use was acceptable to this location, subject to safeguarding conditions which included noise levels.

4.2.5 4 complaints from 1 x unit within the site have been received during the last 2 years in relation to the noise levels being exceeded. However random audible checks over a number of site visits were conducted but were found rarely to breach the planning condition, however the owners were contacted and informed to address and adhere to the condition accordingly.

4.3 **Environmental Health**

4.3.1 Having regard to the previous complaints and the objections received in respect of the current application to remove condition 3 relating to the noise levels, Environmental Health have undertaken further noise assessments.

4.3.1 They have been monitoring the sound environment as part of their investigations and have conducted a BS4142 noise survey and assessment to determine the current sound environment at Cross Fit Panic Gym.

4.3.2 The BS4142 noise survey is conducted to assess the likely impact of industrial and commercial noise on the surrounding environment. The BS4142 uses a rating level which is based on a comparison between the sound which is assessed and the background sound which would exist without it.

4.3.3 Further to the evaluation of the data produced by the BS4142 noise survey, it was determined that the threshold of what would constitute a statutory nuisance in the context of an industrial locality has not been exceeded. A summary of the BS4142 noise assessment report and appendix is attached at appendix E for assistance.

4.3.4 There is an acceptance that complaints have been received and other units within the industrial estate can hear music and/or persons who use the facility, however the very nature of the industrial estate gives rise to a use that is operated where noise may occur and be higher than in areas with more sensitive receptors such as residential as one example, so whilst noise does occur from the use of this site, given the location and surroundings it is not to a level that would warrant refusal of the application.

4.3.4 In light of the above there is no evidence that a statutory nuisance under the Environmental Protection Act 1990 has occurred.

Impact upon neighbouring amenities

4.3.5 In light of the above, it is accepted that the planning condition may have provided a tool in safeguarding neighbouring amenities, however the removal of the planning condition would not mean that future complaints could not be dealt with under The Environmental Health Act and as such the planning condition would be considered unnecessary. Notwithstanding the objections received, it is not considered there are adequate grounds to resist the removal of this condition.

4.4 **Other New legislative considerations**

4.4.1 With respect to the above and notwithstanding the National and Local Plan Policies, changes to the Town and Country Planning 'Use Class Order' (from August 2021) now allow for the change of use of such units. The previous class B1 now falls within the new use class order E(g) which are permitted to change use to that of a gym and leisure facility, without the need to apply to the Local Planning Authority for permission

5 **Consultation & Feedback**

5.1 A site notice was posted and neighbouring properties consulted

5.2 Two representations have been received objecting to the proposal, details are contained in Appendix C.

6 Financial Implications

6.1 None identified

Financial Implications reviewed by: N/A

7 Legal and Governance Implications

7.1 No legal implications are presented by this report.

Legal Implications reviewed by: Tom Pickwell (Solicitor)

8 Background Papers

8.1 Planning Application ref 19/00165/COU

9 Appendices

9.1 A: Recommended conditions

9.2 B: Consultation replies

9.3 C: Summary of representations received

9.4 D: List of applicable policies

9.5 E: Summary of the BS4142 noise assessment report

Report Author:	Deborah Wetherill Planning Officer
Report Author Contact Details:	01664 502391 DWetherill@melton.gov.uk
Chief Officer Responsible:	Paul Feehily , Interim Assistant Director for Planning Interim Assistant Director for Planning
Chief Officer Contact Details:	01664 502418 pfeeihly@melton.gov.uk

Appendix A: Recommended Conditions

1. The development shall be carried out in accordance with the following plans: revised site layout plan as shown on Hayward McMullan Architects drawing number PL001.

Reason: To ensure a satisfactory form of development in accordance with Policies SS1 and D1 of the Melton Local Plan.

2. Onsite parking and turning facilities shall be maintained in perpetuity in accordance with Hayward McMullan Architects drawing number PL001.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (2019).

3. Secure cycle parking shall be maintained and kept available for use in accordance with details first submitted to and agreed in writing by the Local Planning Authority.

Reason: To promote travel by sustainable modes in accordance with the National Planning Policy Framework (2019).

Appendix B: consultation replies

Environmental Health: response outlined at section 4.3

Ward Member: In July 2019 this was a retrospective application for a Change Of Use.- a gym on an industrial site.

It wasn't fully compliant with Local Plan policy EC3, but members liked the idea of a gym for nearby employees as well as local residents, for health and wellbeing reasons .

But, as I recall, the Condition was particularly important to members because prior to the retrospective application being submitted, there had been complaints from other businesses re noise at the Gym.

I do not believe that members would have permitted that application in July 2019 without that particular Condition .being attached.

However, I understand that since August 2019, within days of permission being granted, there have been complaints to MBC re the excessive noise.

I also understand that there have been many inspections and observations of the site and continuous communication between MBC and the applicant related to enforcement.

Indeed, the new application appears to be the applicant's response to MBC's enforcement action – with the applicant wanting to remove the constraint altogether.

I note that the applicant suggests that the condition is 'unrealistic' and should be removed. I disagree with his reasoning.

Firstly the applicant claims that other nearby units are noisier but I understand that 'industrial' noises have not caused complaints by neighbours. Furthermore, users of industrial units expect industrial noise, not loud music, especially drum music and use of the sub-woofer (if that is happening) .

Secondly, it is perhaps understandable that the applicant would wish to ventilate the gym as much as possible because of the COVID pandemic. However, the applicant is legally required to abide by that condition and the music must be adjusted in accordance with that condition.

Since the beginning of the pandemic, people and businesses have had to make many adjustments but they must still obey the law.

In July 2019, that condition was deemed to be necessary by MBC but might it be possible to change the Condition to something less onerous for the applicant but which will still protect neighbouring occupiers from excessive operational noise ?

LCC Highways: N/A.

Appendix C: Summary of representations received

- Condition originally imposed to prevent noise nuisance on surrounding properties and to ensure does not effect health and wellbeing
- Continuous noise nuisance over the last two years resulting from the development
- Awaiting further response from EH on the noise nuisance complaints.
- Council not investigated breach of planning condition.
- Consider that the condition is regularly being breached.
- Noise from the use is different to that of an industrial use.
- Other options available to reduce noise levels.
- Ventilation can be introduced without need to open doors which would further result in noise impacts.
- Condition should remain in perpetuity.
- If condition is removed, then potential for music to be played louder and at all times of the day, as was being done prior to the application.

Appendix D: List of applicable Development Plan policies

Melton Local Plan

- Policy SS1 - Presumption in Favour of Sustainable Development.
- Policy EC3 - Existing Employment Sites
- Policy D1 - Raising the Standard of Design.
- Policy C9 - Healthy Communities

Appendix E: Summary of the noise monitoring investigation from Environmental Health

The BS4142 noise survey is conducted to assess the likely impact of industrial and commercial noise on the surrounding environment. The BS4142 uses a rating level which is based on a comparison between the sound which is assessed and the background sound which would exist without it.

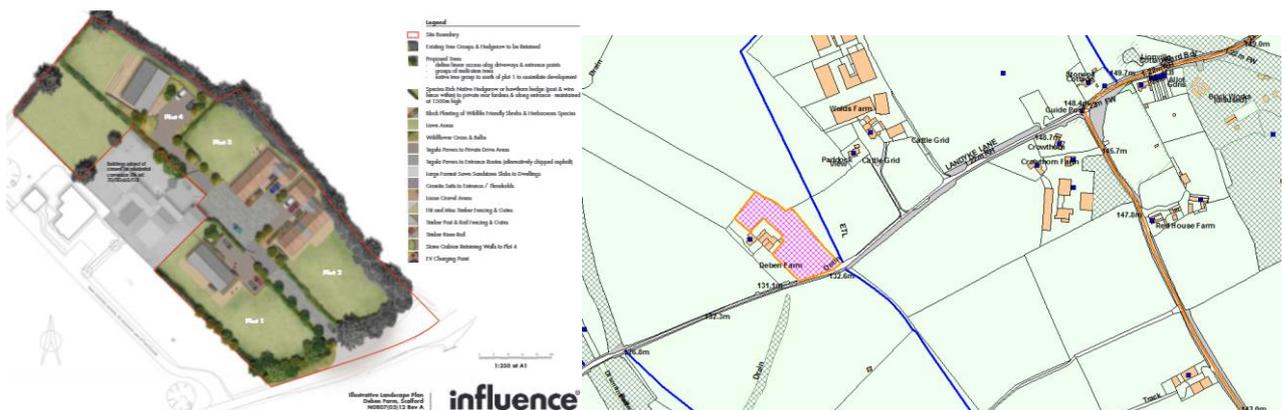
Following our evaluation of the data produced by the BS4142 noise survey, we have determined that the threshold of what would constitute a statutory nuisance in the context of an industrial locality has not been exceeded.

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21/00947/FUL - Deben Farm, Scaford - Proposed residential development of former farm complex comprising the replacement of all non-traditional former agricultural buildings with 4 new dwellings (in lieu of dwellings approved under LPA references 20/00741/GDOCOU and 20/01474/GDOCOU

Corporate Priority:	Delivering sustainable and inclusive growth in Melton
Relevant Ward Member(s):	Elaine Holmes (Waltham on the Wolds)
Date of consultation with Ward Member(s):	18 August 2021
Exempt Information:	No

1 Summary



- 1.1 The application site is located within open countryside, outside of the limits of development, between the villages of Scalford and Long Clawson. The redundant farm complex comprises an attractive traditional barn, further modern agricultural type storage buildings and a farm house nearby together with hardstanding areas and grassland.
- 1.2 The development would be accessed via an existing entrance and set back from the highway of Landyke Lane. The nearest adjacent farm house Deben Farm has also recently been granted approval for its own vehicular access to serve the farmhouse exclusively aside these farm buildings and is therefore separate from the application site
- 1.3 Conversion of Agricultural buildings to dwellings under permitted development Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 allows the change of use of a building to be undertaken without express planning permission, known as permitted development.
- 1.4 The site location plan provides a visual layout of the entire redundant farm complex which is within the applicants' ownership. However the red line correctly details the site and buildings relevant to this particular application for the redevelopment of those 4 non traditional farm buildings formerly permitted via Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 1.5 20/00741/GDOCOU and 20/01474/GDOCOU having an extant prior approval for conversion of 3 barns to 4 dwelling houses. The adjacent traditional barn (outside of the red line) has been excluded from this application as there is already an extant FULL permission 20/00460/FUL for its renovation and conversion into 1 dwelling.

RECOMMENDATION(S)
1. Approval subject to Conditions as set out in Appendix C

2 Reason for Recommendations

- 2.1 The site already has an extant permission, for the conversion of the traditional barn to C3 dwelling house and prior approval via Class Q for the conversion of three larger barns to five dwelling houses, including a conversion under Class R for office use B1(a)
- 2.2 It is considered that the current FULL application does not unacceptably exceed those limitations (not limited to maximum of 5 dwellings created, division of land titles, structural integrity and sole use of agricultural etc..) already allowed via permitted development within class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 and as such the proposal remains within the general scope of the extant prior-approvals for barn conversions. Furthermore, its proposed redesign, architectural detailing and layout would be to the betterment of its rural location providing high quality residential dwellings
- 2.3 The proposal would result in a development that would be acceptable in principle and would be sympathetic to the character of the area. There would be no adverse impact on protected species.
- 2.4 Furthermore, the proposal would not be considered to have an adverse impact upon the setting of its rural landscape or the surrounding area.

- 2.5 The principle of the development in this location is contrary to Policy SS3 of the Melton Local Plan and Policy H6 of the Scalford Neighbourhood Plan, however prior notification granted on the site for residential use is a material planning consideration in this instance.

3 Key Factors

3.1 Reason for Committee Determination

- 3.1.1 The Director for Growth and Regeneration (in consultation with the Chair of Planning Committee) considers this application as likely to raise matters which should be referred to the Committee.

3.2 Relevant Policies

- 3.2.1 The Melton Local Plan 2011-2036 was adopted on 10th October 2018 and is the Development Plan for the area.
- 3.2.2 The Local Plan is up to date and consistent with the latest revised versions of Government Guidance as contained in the National Planning Policy Framework.
- 3.2.3 The Scalford Neighbourhood Plan was adopted on 23rd June 2021 and forms part of the Development Plan.

3.3 Main Issues

- 3.3.1 Position under the Development Plan Policies
- 3.3.2 Principle of Development
- 3.3.3 Design
- 3.3.4 Impact upon the character and appearance of the locality and landscape
- 3.3.5 Highway and Transport matters
- 3.3.6 Impact on biodiversity and protected species
- 3.3.7 Residential amenities

4 Report Detail

4.1 Position under the Development Plan Policies

- 4.1.1 The site lies between the settlements of Scalford and Long Clawson and Policies SS1-SS3 apply. The site is outside of the Limits to Development as set out in Policy H2 of the Scalford Neighbourhood Plan.

4.2 Principle of Development and Material Planning Consideration of Class Q Prior Notification.

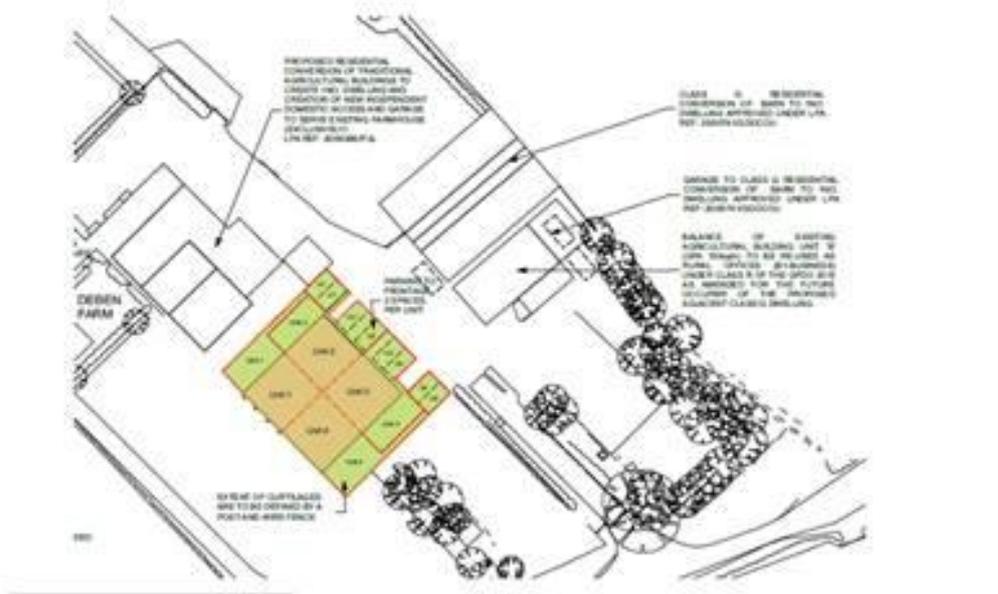
- 4.2.1 The site lies within open countryside and beyond the Limits to Development in the Neighbourhood Plan. Policy SS2 of the Local Plan states that in the open countryside, new development will be restricted to that which is necessary and appropriate in the open countryside. While Policy H2 of the Neighbourhood Plan seeks to support proposals within the Limits to Development, development within the open countryside will be carefully controlled in line with local and national strategic planning policies.
- 4.2.2 The proposed new dwellings are considered to be contrary to those policies, and can only be approved if material considerations are present to justify a departure from them. The

site already has prior approval for the conversion of the traditional threshing barn to C3 dwelling house and prior approval via Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 for the conversion of three larger barns to five dwelling houses, including a conversion under Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 for office use B1 (a).

4.2.3 Therefore a development of (6 dwellings in total) can already be lawfully provided on the site without the requirement of full planning permission due to prior approval being granted. Whilst this does not secure the principle of development in this location granting of Class Q prior approval does establish the precedent for residential use on the site and it should be considered as a material consideration in the determination of this proposal.

4.2.4 Plan of site permitted under prior notifications 20/00741/GDOCOU and 20/01474/GDOCOU and planning permission 20/00460/FUL.

The residential conversion of the three largest modern agricultural buildings within the site into five dwellings has also already been secured as a form of permitted development via Class Q of the GPDO 2015 (as amended) under LPA references 20/00741/GDOCOU and 20/01474/GDOCOU.



4.2.5 The dwellings proposed would be on the site of the agricultural buildings which would necessitate their demolition and extinguish the existing 'Part Q' permission for the five dwellings, Masterplan below.



- 4.2.6 The Parish Council objects to the proposal stating that the site does not meet the criteria for sustainable development as defined in the Scafold Neighbourhood Plan. However, as set out above, there are significant material considerations that in this case are considered to justify a departure from the Neighbourhood Plan. Case law has established that a Class Q approval provides a ‘fall back position’ to which future development can be compared and balanced even where the approved work has not been carried out.
- 4.2.7 The Court of Appeal in *Mansell V Tonbridge and Malling Borough Council* (2017) EWCA Civ 1314 clarified when a ‘fall back’ development may be a material planning consideration for an alternative development scheme. The court also re-examined the correct interpretation of Class Q general permitted development rights (i.e. agricultural building to residential dwelling).
- 4.2.8 The case concerned an appeal of the first instance decision of Garhnam J in dismissing a claim for judicial review of a planning permission granted by Tonbridge and Malling Borough Council. The development being the demolition of a barn and bungalow and the construction of four detached dwellings.
- 4.2.9 The case also provided additional clarification from the case officer who presented the argument that “A scheme confined to taking advantage of permitted development would, in my view, be to the detriment of the site as a whole in visual terms, the current proposal therefore, in my view, offers an opportunity for a more comprehensive and coherent redevelopment of the site as opposed to a more piecemeal form of development that would arise should the applicant seek to undertake to implement permitted development rights.”
- 4.2.10 The Court of Appeal dismissed the appeal and thereby did not quash the council’s grant of planning permission. The Rt Hon Lord Justice Lindblom confirmed the legal considerations in determining the materiality of a fallback position as a planning judgement were:
- 4.2.11 The basic principle is that for a prospect to be a “real prospect”, it does not have to be probably or likely: a possibility will suffice.
- 4.2.12 There is no rule of law that, in every case, the “real prospect” will depend, for example, on the site having been allocated for the alternative development or planning permission having been granted for that development, or on there being a firm design for the

alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the necessary General Permitted Development Order. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgement in the particular circumstances of the case in hand.

- 4.2.13 He then concluded that the clear desire of the landowner to develop, and maximise the value of the site was sufficient to demonstrate there was a real prospect of the Class Q GPDO fallback position in this case. Therefore, the Council made no error in law in giving material weight to such fallback position.
- 4.2.14 To take the case in point The Court of Appeal in Mansell V Tonbridge and Malling Borough Council (2017) and the conclusions reached the application presents a similar scenario whereby the desire of the landowner to develop is considered sufficient to demonstrate there is a real prospect of the Class Q GPDO fallback position and should be given material weight as a fallback position.
- 4.2.15 The proposal would provide significant visual benefits for the site and surroundings providing a cohesive layout and visually pleasing design overall, the remaining building on site that is still to be converted rather than demolished would result in the retention of an example of a traditional barn and therefore acknowledging the historic origins of the site..
- 4.2.16 **Housing Mix (NP Policy H3):** In terms of housing mix, 3 of the units would have 3 bedrooms and 1 unit would have 2 bedrooms. Policy H3 of the Neighbourhood Plan seeks a housing mix that meet identified local needs and priority given to dwellings of 1, 2 and 3 bedrooms (n.b. Local Plan Policy C2 which seeks to achieve a mix of house types can only be considered on schemes of 10 or more and therefore does not influence the determination of this application).
- 4.2.17 Proposals for new housing development should provide for a mixture of housing types in order to meet identified local needs in Chadwell, Scalford and Wycomb. The provision of dwellings with 1, 2 and 3 bedrooms suitable to meet the needs of young people, young families and older people (especially those who wish to downsize) will be supported. On sites of between 1 and 4 dwellings new market housing should have 3 or fewer bedrooms.
- 4.2.18 It is therefore considered the application achieves the required percentage of housing provision on this site and that the proposals are in conformity with Policy H3 of the NP.
- 4.2.19 **The principle of development is therefore acceptable.**
- 4.2.20 Policy C4 of the Local Plan states affordable housing provision will be required on all sites of 11 or more units and/or where the floor space exceeds 1000 m2. In this case, the floor area of the proposal for the development of those 4 dwellings does not exceed the 1000m2 threshold.
- 4.2.21 The amended red line plan now clearly demonstrates the exclusion of plot 5 which already has detailed planning consent for the same residential conversion/floorspace via a previous approval 20/00460/FUL. It was only included within this current application to demonstrate overall compatibility with the redevelopment element
- 4.2.22 This application is of course being promoted on the basis that there is already consent for the same or greater number of dwellings on the site via Class Q and the traditional residential conversion, none of which are subject to affordable housing contributions.

4.2.23 In the above connection, it is noted that the total floorspace of the *new* dwellings proposed in this planning application (Plots 1 to 4, including their garages) comes to **944sqm** – which sits below the 1000sqm affordable housing threshold.

4.2.24 On this basis, it is considered that the proposed development should not trigger affordable housing.

4.2.25 Therefore the use in principle has already been established, however the proposed additions and alterations are subject to satisfying all other material planning considerations as assessed further below.

4.3 **Design**

4.3.1 Amended details within the current submitted FULL application is now essentially proposing proceeding with the conversion of the traditional barn but replacing the non traditional former agricultural buildings with 4 new dwellings as opposed to the permitted 5.

4.3.2 The demolition of the existing non traditional barns will be replaced with 4 individually designed dwellings adopting a mix of traditional and contemporary designs. While respecting and reinforcing the agricultural style of the site.

4.3.3 Plots 1 and 4 are designed as interpretations of the modern agricultural buildings already located within the site. They will continue to utilise the linear layouts, with large areas of glazing and more modern roof pitches.

4.3.4 Plots 2 and 3 have adopted a more traditional approach being designed more reminiscent of a farm workers cottage comprising red pantiles and render to reflect that of the traditional barn and farmhouse west of the site and arranged in a U shape courtyard formation, often found within traditional farmyards, which will preserve the historic character and history of the site.

4.3.5 The cohesive design of the four plots are considered to be of an appropriate scale for the nature of the location, and whilst acknowledging that this would not be an appropriate location for new development in usual circumstances, they layout and parking are of an acceptable design enhancing the context of the site and wider street view, whilst still reflecting the previous agricultural use of the site. Conditions have been recommended that will further secure the design of the proposals, including the submission of materials and boundary treatments.

4.3.6 The proposal is sympathetic and in keeping with its location and considered to comply with Policy D1 of the Melton Local Plan and Scaford Neighbourhood Plan Policy H6 and the objectives of the NPPF.

4.4 **Impact upon the character and appearance of the locality and landscape**

4.4.1 Aside the traditional threshing barn, the sites existing substantial footprint, scale and massing are of a poor quality and appearance, whilst the barns are structurally sound and acceptable for conversion the design when converted would be less aesthetically pleasing than those presented within this application by being replaced with a significantly smaller footprint which has been designed to reflect and respect the agricultural origins of the site. The scheme appears of high quality and to reinforce the character of its historic origins and its sense of place.

- 4.4.2 Materials comprising red pantiles with render including red brick with vertical timber boarding add variety and interest while respecting its rural location, being sympathetic to its landscape. However further details are required to clarify those materials by way of a condition prior to proceeding above DPC levels.
- 4.4.3 Located within designated open countryside, with an existing access, the site sits in isolation, mostly screened by the mature boundary hedge, which line the highway. Views both in and out of the site are considerably softened due to the existing landscape features and with the addition of the proposed landscaping scheme which includes more native tree planting will be further improved.
- 4.4.4 The proposed design and principal materials have been carefully considered to relate well to that of a barn conversion and its rural location.
- 4.4.5 The submitted hard and soft landscaping scheme provides a high level of detail proposed, however it is considered that boundary treatments to the plots will need to be clarified in terms of materials and heights to ensure it remains sympathetic to its countryside location and neighbouring amenity, together with details of site levels which will ensure the proposal would continue to comply with Policy D1 and EN1 of the MLP.
- 4.5 Highway and transport matters**
- 4.5.1 The previous approval 20/00460/FUL approved a new access point for the farmhouse, with its own drive and parking area and garage whilst retaining the existing access to serve the conversion on this site together with the recent prior approvals.
- 4.5.2 The Highways Authority have no objection to the use of this access to serve the development subject to the requested conditions. The access and parking arrangements are therefore considered acceptable and raise no issues under Local Plan Policy IN2 and Neighbourhood Plan Policy TR1.
- 4.6 Impact on biodiversity and protected species**
- 4.6.1 The ecology report by RammSanderson, October 2021 found evidence that the building has been used by bats as a summer non breeding roost. Full inspection and emergence surveys have been carried out at an appropriate time of year.
- 4.6.2 A mitigation plan is provided to allow the conversion/ demolition to take place and also provide alternative roosting opportunities in the long term. An EPS licence will be required from Natural England. The County Ecologist has confirmed no objections to the proposal subject to conditions.
- 4.6.3 The proposal is therefore considered in accordance with local Plan Policy EN2 and Neighbourhood Plan Policies EN8 and EN11.
- 4.7 Impact on Residential amenities**
- 4.7.1 The new proposal will enable a better spatial arrangement of the dwellings across the site compared to the prior approval conversion thereby improving levels of amenity, privacy and natural light and outlook for the future occupiers.
- 4.7.2 Their separation distance and relationship of fenestration are considered acceptable so as not to overlook or be overbearing such that the proposal meets with the objectives of Local Policy D1, H6 and the NPPF.

5 Consultation & Feedback

5.1 A site notice was posted and neighbouring properties consulted.

5.2 No letters of objection/comment have been received to date.

6 Financial Implications

6.1 Not applicable

Financial Implications reviewed by: N/A

7 Legal and Governance Implications

7.1 Legal implications have been included in the main body of the report. No specific issues are identified. Legal advisors will also be present at the meeting.

Legal Implications reviewed by: Tom Pickwell (Solicitor)

8 Background Papers

8.1 Planning History

- 05/00918/FUL - Conversion of barn to holiday let permitted 28.11.2005
- 16/00744/GDOCOU - Prior approval 1 barn to up to 3 dwellings. Approved 29.11.2016
- 20/00043/FUL - Conversion of barn to create dwelling. Permitted 06.04.2020
- 20/00741/GDOCOU - Prior approval 1 barn to create dwelling and garage. Approved 25.08.2020
- 20/00460/FUL – Proposed residential conversion of traditional agricultural buildings to create 1 x dwelling and creation of new independent domestic access and garage to serve existing farm house exclusively. Approved 21.10.2020
- 20/01474/GDOCOU - Change of use of existing (former) agricultural building to create 4no. dwellinghouses. Approved 04.02.2021

9 Appendices

9.1 Appendix A Summary of Statutory Consultation responses

9.2 Appendix B Summary of Representations Received

9.3 Appendix C Recommended Planning Conditions

9.4 Appendix D Informatives

9.5 Appendix E Photographs of site

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Chief Officer Responsible:	Paul Feehily , Interim Assistant Director for Planning
Chief Officer Contact Details:	01664 502418 pfeeihly@melton.gov.uk

Appendix A: Consultation Replies Summary

Parish Council: The Parish Council have studied this application and cannot find any justification for the application which is clearly in the open countryside. Scalford Neighbourhood Plan and national planning guidance does not support such applications for new dwellings in open countryside. The Parish Council would also question the change of use under part Q which is apparently deemed to meet the criteria for permitted development. The application appears to be using this as justification to flatten the site and start again. The Parish Council object to these application on the above grounds particularly as a development in open countryside.

Amended Plans: The Parish Council refer you to our comments of the 8th September 2021 (as above) which the Council feel are still applicable and in addition would comment as follows: The local plan housing requirement for the Parish is already exceeded by 3, the development does not accord with policies H2 and H4 of the Scalford Neighbourhood Plan 4. The site does not meet the criteria for sustainable development as defined in the Scalford Neighbourhood Plan.

Ward Member: No comments received.

LCC Highways: Substantive Response provided in accordance with article 22(5) of The Town and Country Planning (Development Management Procedure) (England) Order 2015: The Local Highway Authority Advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 111 of the National Planning Policy Framework (2021), subject to the conditions and/or planning obligations outlined in this report.

Amended Plans: The Local Highway Authority (LHA) have reviewed the updated 'Existing Site Plan' and 'Illustrative Landscape Plan' documents and are satisfied that the information does not appear to provide a material change to the previously reviewed documents from a highway perspective and therefore the LHA has no additional comments to make. The previous observations dated 23rd December 2021 therefore remain valid.

Ecology: The updated bat report (RammSanderson, October 2021) is now acceptable. The survey recorded a common pipistrelle maternity roost within the onsite buildings, with a peak count of 19 individuals. Recommendations for mitigating disturbance to the roost has been submitted, which I agree with and suggest that these are conditioned. In addition, a barn owl roosting site was recorded within Building 1 during the surveys. Recommendations for mitigating disturbance to barn owls has been submitted, which I agree with and suggest are conditioned. Note to Applicant: The applicant's ecologist has identified that a Natural England Licence will be required for the bat mitigation. It is the applicants' responsibility to liaise with their ecologist to ensure that all necessary licences are in place prior to the commencement of the works and to ensure that all licence conditions are adhered to.

Amended Plans: I have no comments to make in addition to those made by my colleague previously (As above)

Appendix B: Summary of representations received

1. No comments received.

Appendix C: Recommended Conditions

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The approved development shall be carried out in accordance with the submitted details and following plans:

20.205.S03.108 REV A Amended Site Plan Received 14th January 2022
20.205.S03.103 Proposed Plans and Elevations Received 6th August 2021
20.205.S03.104 Rev A Revised Proposed Plans and Elevations Received 15th September 2021
20.205.S03.105 Rev A Proposed Plans and Elevations Received 15th September 2021
20.205.S03.106 Proposed Plans and Elevations Received 6th August 2021
20.205.S03.107 Proposed Plans and Elevations Received 6th August 2021
20.205.S03.119 Proposed Parking and Visibility Splays Received 12th December 2021
N0807(03)010 Hard Landscape Plan Received 6th August 2021
N0807(03)12 Rev A Amended Illustrative Landscape Plan Received 14th January 2022
3. Notwithstanding the details shown on the approved plans and documents, details and samples of the materials to be used in the construction of the external surfaces shall be submitted to, and approved in writing by, the Local Planning Authority before the commencement of any works above damp proof course level of the building(s) hereby permitted is carried out.
4. No development shall take place on site until details of existing and finished site levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with such agreed details.
5. If during development, contamination is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a Remediation Method Statement has been submitted by the developer and approved by the LPA detailing how this unsuspected contamination shall be dealt with.
6. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local

Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

7. The development and conversion of the Threshing Barn shall be carried out and made good where necessary using external facing and roofing materials to match the existing materials on the building.
8. The development shall be carried out in accordance with the mitigation recommendations as detailed within sections 4 and 5 of the Ramm Sanderson ecological report dated October 2021 and Enhancement Plan (RammSanderson, relating to timing of works, lighting, bird nesting enhancements and temporary and permanent bat roosting provision.
9. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Drawing 20.205.S03.119 have been implemented in full.
10. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Drawing 20.205.S03.119. Thereafter the onsite parking provision shall be so maintained in perpetuity
11. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres x 61.5 metres to the east and 2.4 metres by 107.5 metres to the west have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
12. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.
13. Notwithstanding the details submitted, prior to occupation of the dwellings hereby permitted, details of boundary treatments to include materials and heights of fences etc. shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall remain in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Appendix D: Informatives

1. This decision has been reached taking into account the requirements of paragraph 38 of the National Planning Policy Framework 2021 in approaching decisions on proposed development in a positive and creative way. The Local Planning Authority has endeavoured to use the full range of planning tools available to work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area seeking to approve applications for sustainable development where possible.

2. Please be advised that you may require Building Regulations approval before work can commence. Please contact Building Control either via the online enquiry form found at www.melton.gov.uk/homepage/71/building_control or by email buildingcontrol@melton.gov.uk or by telephone; 01664 502369.
3. The applicant's ecologist has identified that a Natural England Licence will be required for the bat mitigation. It is the applicants' responsibility to liaise with their ecologist to ensure that all necessary licences are in place prior to the commencement of the works and to ensure that all licence conditions are adhered to.

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