

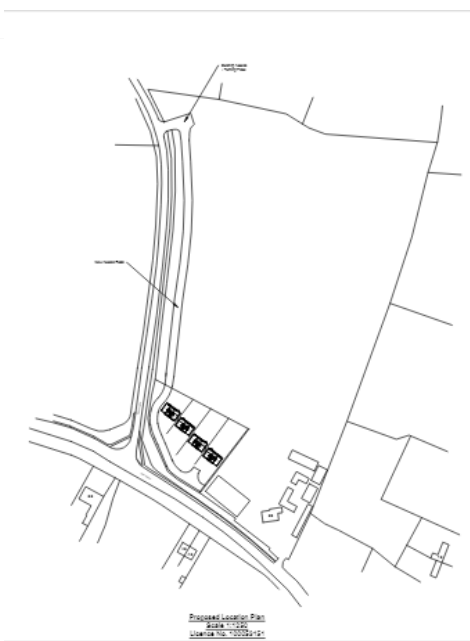


Appendix B

Planning application ref.21/00836/FUL The erection of 1 new dwelling and the resiting of 3 approved dwellings (ref.17/01312/FUL) (4 x 3 beds); alterations to access Land At 36 Main Road Kirby Bellars

Corporate Priority:	Delivering sustainable and inclusive growth in Melton
Relevant Ward Member(s):	Councillor Ronan Browne (Frisby on the Wreake)
Date of consultation with Ward Member(s):	4 August 2021
Exempt Information:	No

1 Summary



Council Report

Planning application ref.21/00836/FUL The erection of 1 new dwelling and the resiting of 3 approved dwellings (ref.17/01312/FUL) (4 x 3 beds); alterations to access Land At 36 Main Road Kirby Bellars

- 1.1 The application site consists of a 0.4ha area of agricultural land which forms part of the farm complex at Cottage Farm Main Road, Kirby Bellars. The site is currently vacant following the demolition of two large agricultural buildings used to house livestock. The site is located on the corner of Main Road and Station Road. There is a mature hedgerow located along the site's southern and western boundaries, adjacent to the highway. There is no boundary treatment between the application site and the farm complex to the east or agricultural land to the north. The land within the site is located on a lower ground level to Main Road and slopes away from the highway towards its northern boundary.
- 1.2 The site is located outside of the village of Kirby Bellars, which is approximately 180m to the east. There are three dwellings on the south side of Main Road in the form of sporadic ribbon development, just over 45m from the application site.
- 1.3 Planning permission ref. 17/01312/FUL was granted for the demolition of agricultural buildings and the erection of 3 dwellings. At the time of the 2017 application there was an odour abatement notice at the site in relation to the pig farming operation, which had been ongoing since September 2016. The three dwellings proposed under the 2017 application would replace the two livestock sheds which were granted planning permission in 2014.
- 1.4 There was considered to be substantial benefit arising from the fact that the development would remove the existing environmental issues. There was also considered to be benefits in terms of the delivery of housing of a type for which there remains an identified need in the Borough, and the removal of HGV traffic currently serving the agricultural buildings. The committee report stated: "Given the ongoing odour issue with the existing use and the abatement notice, it is considered that there are exceptional circumstances to grant planning permission which would be contrary to the Development Plan and prevailing policies. In conclusion it is considered that, on the balance of the issues, there are **very significant benefits** accruing from the proposal in terms of the odour issue." An accompanying S106 agreement restricts the accommodation of livestock in the adjacent agricultural building to the east of the site at any time other than for the purpose of lambing for 4 calendar months of the year.
- 1.5 Prior to the submission of planning application ref.17/01312/FUL pre-application advice was submitted with regards to residential development on the site of between 3 to 5 dwellings. At this stage advice was provided that up to 3 dwellings was likely to be looked upon favourably as it would align with the provisions of the emerging local plan policies including SS2 and SS3 which in rural settlements such as Kirby Bellars would allow for residential development on unallocated sites of up to 3 dwellings, but a residential development in excess of 3 dwellings was not.
- 1.6 The agricultural buildings within the site have been demolished therefore it is considered that the development approved under planning permission ref.17/01312/FUL has commenced. As set out in section 56(4) of the Town and Country Planning Act 1990: "*development is taken to be begun on the earliest date on which a material operation is carried out*". A material operation can include any works of construction, demolition, digging foundations, laying out or constructing a road and a material change in the use of the land.
- 1.7 Planning permission ref.17/01312/FUL has been implemented as a result of the existing livestock buildings on the site, and the associated section 106 agreement has come into effect. The S106 agreement requires that following the first occupation of the three dwellings approved within the site it would not be possible to accommodate livestock in

the agricultural building adjacent to the site's eastern boundary other than for the keeping of sheep for the purpose of lambing for four months per calendar year. Therefore the substantial benefits resulting from the pig husbandry activity within the site ceasing and the removal of the associated odour issues, which weighed in favour of granting planning permission 17/01312/FUL, no longer exist and so is not a material planning consideration which can, be weighed in favour of the current planning application.

RECOMMENDATION(S)

1. It is recommended that the Planning application is REFUSED
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2 Reason for Recommendations

- 2.1 The application seeks full planning permission for the erection of one new dwelling; the re-siting of three dwellings approved under planning permission ref.17/01312/FUL; and alterations to the access. The spatial strategy for new development in the Borough, as set out in policy SS2 of the Local Plan, allows for small scale residential development within or on the edge of rural settlements including Kirby Bellars, of up to 3 dwellings, subject to it being compliant with Policies SS1 and SS2. The proposal would not meet an identified housing need as required by Local Plan Policy SS3, nor would it be located in a sustainable location and future residents of the proposed houses would be heavily reliant on a private car to access services and amenities. The principle of the proposed development is therefore considered to be unacceptable.
- 2.2 The principle of three dwellings (3x3 bed) within the application site has been established by planning permission ref.17/01312/FUL. The proposed new layout including the alterations to the access would meet with the principles of good design set out in policy D1, as expanded in the Design for Development SPD, but the approved scheme also meets these principles and therefore it has been afforded neutral weight.
- 2.3 With regards to the proposal's design, residential amenity, the provision of an adequate vehicle access and on-site parking, impact upon ecology and biodiversity, the proposal would accord to Local Plan policies C9, EN1, EN2, EN6, EN8, EN12, IN2 and D1, and the Design of Development Supplementary Planning Document SPD.
- 2.4 However, the proposal conflicts with Local Plan policies SS2 and SS3 and the overall aims of the National Planning Policy Framework as a result of new residential development being provided in an unsustainable location without substantive evidence of there being identified need.
- 2.5 The departure from the spatial strategy for the delivery of new residential development in the Borough set out in policy SS2, and the absence of a proven local need for 4 new dwellings in this location, required by policy SS3, is not outweighed by the remaining limited benefits of the scheme including the alterations to the internal site layout including the access road. As the pig husbandry activity on the site has ceased following the demolition of the two large agricultural buildings within the site, the associated odour issues cannot be weighed in favour of the current planning application. Therefore, the principle of the proposed development cannot be supported.

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 (LP) 2011-2036 was adopted on 10 October 2018 and forms part of the Development Plan for the area.

3.2.2 The Design of Development Supplementary Planning Document (SPD) was adopted on 24th February 2022.

3.2.3 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.

3.2.4 Please see Appendix D for a list of all applicable policies.

3.3 Main Issues

3.3.1 The main issues for this application are considered to be:

- Position under the Development Plan Policies
- Principle of development
- Impact upon the character of the area
- Impact upon residential amenities
- Impact upon highway safety
- Impact upon ecology and biodiversity
- Contamination
- Flood risk and drainage

4 Report Detail

4.1 Position under the Development Plan Policies

4.1.1 The site is located within the open countryside outside of the settlement of Kirby Bellars and is not identified for residential development. Kirby Bellars is identified as a rural settlement in the Local Plan, it has no allocated housing sites. In the Local Plan rural settlements are described as: “small villages or hamlets that have little or no local services, where residents are entirely dependent upon travelling to a nearby settlement or town or city for work, recreation and service provision”. This is considered to be broadly accurate however, it is recognised that there is a bus stop adjacent to the site’s western boundary on Station Road which provides an approximately half hourly service to Melton Mowbray and Leicester between the hours of 0800 and 2000.

4.1.2 Policy SS2 of the Local Plan sets a framework for the delivery of residential development within the Borough. Para. 4.2.17 of the Local Plan sets out that: “Where no sites are allocated for new housing, schemes may be permitted where they represent sustainable development or demonstrably meet identified needs and/or help to sustain local services or facilities.” Kirby Bellars is identified as a rural settlement as such small scale residential

development schemes, of up to 3 dwellings, may be appropriate within or on the edge of the settlement subject to the scheme meeting with the criteria set out in local plan policy SS3.

- 4.1.3 Policy SS3 seeks to protect and enhance existing services and facilities and will support sustainable development proposals in accordance with Policy SS2 which contribute towards meeting local development needs, contributing towards the vision and strategic priorities of the plan, and improving the sustainability of our rural areas where they meet 6 criterion including: 1. The development provides housing which meets a proven local need as identified by substantive evidence.
- 4.1.4 Information has been submitted to demonstrate a local need including reference to a housing needs survey produced by Midlands Rural Housing dated 2020 which was submitted as part of planning application ref. 19/00256/FUL on Land North of 55 Main Street, Kirby Bellars. This application which was for 3 x 2 bed, single storey, detached dwellings. In the consideration on the application for 3 dwellings on Land North of 55 Main Street the housing needs survey was assessed and although it was considered to provide a basis for assessing local need in general terms it was not considered sufficient to demonstrate a proven local need for that specific application. The housing needs survey can be considered as base evidence for the existence of housing need in a settlement. However, to demonstrate that a proven local need as identified by substantive evidence exists in accordance with Local Plan Policy SS3 it must demonstrated that the need is genuine and more than a preference or a desire. It is considered that insufficient evidence has been submitted to demonstrate there is a proven local need rather than just a preference or desire for new residential development of this type within the site.
- 4.1.5 In addition to the housing needs survey the Design and Access statement sets out that the need for the additional dwelling has arisen due to the operational nature of an agricultural machinery repair business located on the site. This business involves the need to travel long distances, often at short notice, having a dwelling located adjacent to the machinery/tool store associated with this business would cut down on journey times and improve the operational effectiveness of this business.
- 4.1.6 However, the business exists on the site without planning permission and this has been raised as a concern with the applicant. A suggestion has been put forward to the agent/applicant that the current application is withdrawn to allow for an application for the business use to be considered. The applicant has chosen not to take this approach and has requested that the application is determined as submitted. In addition the 3 dwellings approved on the site are market housing, so it would also need to be demonstrated why the owner/employee of the agricultural machinery repair business could not be accommodated within one of the dwellings previously approved.
- 4.1.7 Furthermore, as the site is considered to be outside of the settlement beyond the edge, the open countryside element of Policy SS2 of the MBC Local Plan is also relevant which states; "Outside the settlements identified as Service Centres, and those villages identified as Rural Hubs and Rural Settlements, new development will be restricted to that which is necessary and appropriate in the open countryside."
- 4.1.8 The proposed development included the erection of one additional dwelling and the resitting of three approved dwellings within the site, is not considered to fall within a development type that is necessary or appropriate within the open countryside.

4.2 Principle of Development

- 4.2.1 The principle of three new dwellings on the site (3x3 bed) has been established by planning permission ref. 17/01312/FUL for the demolition of agricultural buildings and the erection of 3 dwellings. The commencement and development pursuant to this planning permission has been commenced through the demolition of the agricultural buildings. As an extant planning permission this represents a realistic fall-back position to the proposed development.
- 4.2.2 However, there has been a significant change to the site context between the consideration of planning application ref.17/01312/FUL and the current situation, as the agricultural buildings used for pig husbandry have been removed. The removal of the agricultural buildings and the associated odour issues was given significant weight in favour of granting planning permission ref.17/01312/FUL despite there being an acknowledgement in the committee report that the site was not a sustainable location for residential development. It was only under these exceptional circumstances that the scheme for three new dwellings to replace the existing agricultural buildings was considered to be acceptable. Given the change in the site context following the removal of the source of the odour issue it is considered that there is insufficient justification for the proposed development as these exceptional circumstances no longer exist.
- 4.2.3 As outlined above it is considered that the proposal would conflict with local plan policies SS2 and SS3.

4.3 Impact upon the character of the area

- 4.3.1 The site is located outside of the village of Kirby Bellars, and the area has a rural character defined by agricultural fields, mature boundary hedgerows and trees, interspersed by sporadic development including 3 dwellings, a pub and a farm complex located to the south of Main Road. The existing mature hedgerow along the highway boundary would be retained and would partially screen the proposal from the public realm. The site is located on lower land than the adjacent highway, Main Road, which would further limit the visual impact of the proposed development. The proposed dwellings would be in the style of the traditional village vernacular including dual pitched roofs with side gables and the use of red brick, grey slate, and stone cills and headers. The new dwellings would be viewed in the context of the neighbouring farm complex, as well as the nearby dwellings to the south of Main Road. Therefore, they would not be considered isolated dwellings, which in accordance with para.80 of the National Planning Policy Framework (NPPF) is a form of development which should be avoided.
- 4.3.2 For the reasons outlined above it is considered that the scale of the proposed development would be proportionate to the existing development surrounding the site. On balance the scheme represents good design in accordance with Local Plan Policy D1.

4.4 Impact upon residential amenities

- 4.4.1 The application site is located outside of the village of Kirby Bellars. At the closest point, one of the proposed dwellings would be located 28.5m from the adjacent highway, Main Road. The closest residential properties to the site are 3 dwellings located on the southern side of Main Road, no.'s 43, 45 and 63. The distance between the proposed dwellings and these dwellings would be a minimum of 60m, greatly in excess of the 21m back to back separation distances set out in the Design for Development SPD. Due to the separation distances involved it is considered that the proposed new dwellings would not

adversely affect neighbours and nearby uses and occupiers and so would be supported under Local Plan Policy D1.

- 4.4.2 The new dwellings would provide a good outlook, natural daylight and ventilation. Private amenity space would be provided to the rear of each of the 4 new dwellings with parking spaces to the front, and a shared access and turning space off Station Road which would allow for vehicles to enter and leave the site in a forward gear.
- 4.4.3 Local planning policies do not set any minimum garden sizes however, the size of the gardens proposed would total around 200 square metres for each plot which is considered to be sufficient to provide a useable outdoor amenity space for future occupiers. For these reasons it is considered that the proposal would provide a high level of residential amenity for future occupiers of the proposed dwelling in accordance with Local Plan Policies D1 and C9.
- 4.4.4 In the submitted Design and Access Statement great emphasis is placed upon the improvements to residential amenity resulting from the amended layout which sees the new dwellings sited further from the adjacent highway Main Road. Given that the approved scheme was considered acceptable with regards to the residential amenity of future occupiers of the new dwellings, and the fact the layout could be changed without the addition of a fourth dwelling Therefore it is afforded limited weight.
- 4.4.5 To protect the future residential amenity of occupiers of the site, if a favourable recommendation was forthcoming, a legal agreement would be required to control the accommodation of livestock in the neighbouring agricultural building in a similar way to the section 106 agreement attached to planning permission ref. 17/01312/FUL, which only allows for the building to be used for lambing for 4 months of the year.

4.5 **Highway Safety**

- 4.5.1 The site is currently accessed across the adjacent farmyard to the east of the site but would be served off a new vehicle access off Station Road to the North of the new dwellings. This access was previously deemed appropriate to serve the approved 3 new dwellings by the Local Highway Authority (LHA). In this case the LHA have referred to their standing advice which requires an access width of 4.25m where it serves up to 5 dwellings, and 6m where it's used for agriculture. In this case the access would be used to serve the 4 new dwellings, the access would exceed 6m in width, and so could also be utilised by agricultural vehicles accessing the site to the satisfaction of the LHA.
- 4.5.2 With regards to parking provision 2 parking spaces would be required for each 3 bedroom dwelling proposed. Details of the parking layout have not been included on the proposed plans. However, the area of the site frontages appears to be of a sufficient size to accommodate 2 parking spaces per dwelling in a potential layout that would not rely on tandem parking. The detailed parking layout could be secured by condition should the application be headed towards a favourable recommendation, in accordance with the adopted Design for Development SPD.
- 4.5.3 Based on the comments received from the LHA it is considered that the proposal raises no highway safety concerns. It is also considered that the proposal would provide a satisfactory access and sufficient on site parking provision in accordance with Local Plan policies D1 and IN2.

4.6 **Ecology**

4.6.1 The proposal would have a limited impact upon the hedgerow located along the highway boundary but the impact is considered to be acceptable. The site access would be located adjacent to a pond with a high probability of supporting great crested newts (GCN). However, the proposed development has a small footprint and would take place on existing hardstanding, which is sub-optimal for GCN. It is noted that County Council Ecology do not object to the scheme providing simple mitigation measures are in place and they consider the likelihood of GCN being impacted by the development to be low.

4.7 **Contamination**

4.7.1 Due to the site's historic use for agriculture, including intensive pig farming, there is potential for land within the site to be contaminated. It is noted that the Environmental Health Officer does not object to the application on these grounds but does request that if the application is approved conditions requiring firstly an investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site; secondly the submission of a remediation scheme; thirdly the implementation of the remediation scheme; and finally reporting any unexpected contamination.

4.8 **Flood Risk/Drainage**

4.8.1 The new dwellings, their associated amenity space, parking and access would be located within Flood Zone 1, an area of low probability of flooding. Flood zone 1 is the preferred location for new residential development as residential development is considered a more vulnerable use.

4.8.2 With regards to site drainage Local Plan Policy EN12 'Sustainable Drainage Systems states (inter-alia): "All developments will be expected to be designed to achieve, where appropriate, a net decrease in surface water run-off rates, including through green infrastructure provision such as the planting of native trees and bushes and the consideration of using 'green roofs'. Given the scale of the proposed development it is considered appropriate that this information could be secured via a planning condition should planning permission be granted.

4.9 **Conclusion**

4.9.1 It is noted that the principle of three new dwellings on the site has been established by planning permission ref. 17/01312/FUL. This permission has been implemented by way of the demolition of two agricultural buildings within the site, and so remains extant. It therefore represents a fallback position for the proposed development.

4.9.2 To summarise it is considered that the material planning considerations above raise no issues in relation to design, residential amenity, the provision of an adequate vehicle access, ecology and biodiversity, and the proposal would accord to Melton Local Plan policies C9, EN1, EN2, EN6, EN8, EN12, IN2 and D1, and the Design of Development Supplementary Planning Document SPD.

4.9.3 However Policies SS1, SS2 and SS3 of the Melton Local Plan set out the spatial strategy for the delivery of new residential development in the Borough by strongly emphasising the need to provide housing in locations that can take advantage of sustainable travel. The proposal conflicts with Local Plan policies SS2 and SS3, by virtue of the absence of a proven local need and the departure from the spatial strategy for new residential development is not outweighed by the limited benefits of the scheme. As such, given that

the principle of the proposed development cannot be supported it is recommended that the application is refused.

5 Consultation & Feedback

- 5.1 A site notice was posted on 12.08.2021 with responses due by 02.09.2021 and letters sent to the immediate neighbours of the site and all contributors to planning application ref. 17/01312/FUL. A total of 2 objections from one household and 2 neutral comments from another household have been received.
- 5.2 The Parish Council have objected to the application. No objections have been received from technical consultees including County Council Highways, Environmental Health, and Ecology

6 Financial Implications

- 6.1 No financial implications have been identified.

Financial Implications reviewed by: N/A

7 Legal and Governance Implications

- 7.1 Legal implications are set out in the report where relevant. Legal advisors will also be present at the meeting.

Legal Implications reviewed by: Tom Pickwell (Solicitor)

8 Background Papers

- 8.1 Committee report for planning application ref.17/01312/FUL.
- 8.2 Planning Committee Minutes from 30th November 2017.

9 Appendices

- 9.1 A: Consultation responses
B: Representations received
C: Recommended Reasons for Refusal
D: Applicable Development Plan Policies

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Appendix A : Summary of Statutory Consultation Responses

Parish Council: Object to the application, in summary on the following grounds:

- a. The recent housing survey identified the need for smaller housing to allow villagers to downsize or starter homes. This application does not fit either.
- b. 4 dwellings could be seen as an over development of the plot.
- c. The attached speed survey (from the application for 3 houses) refers to the visibility splay for the entrance to the field being acceptable for 3 dwellings, but does not state it would be sufficient for a 4th dwelling plus the agricultural and building traffic.
- d. The massing of the buildings near the corner of Station Lane and the A607, with a higher apex than the big barns could have an imposing feel near the busy junction and a negative impact on the village scene.
- e. The only work started is the removal of the pig barns, which would not constitute stating works as their removal was a pre-requisite prior to planning approval.

LCC Ecology: Do not object. In summary they advise the proposed site access is adjacent to a pond that has a high potential of supporting great crested newts (GCN). The development has a small footprint and would take place on existing hardstanding, which is sub-optimal for GCN. Providing simple mitigation measures are in place they consider the likelihood of GCN being impacted by the development to be low. They recommend the inclusion of a number of reasonable avoidance measures (RAMs) to be secured by planning conditions. Also an informative for vegetation removal to take place outside of bird nesting season.

LCC Highways as the Local Highway Authority (LHA): Do not object and refer to their standing advice. The LHA acknowledge that the Applicant proposes the additional new dwelling would utilise the access approved under planning permission ref.17/01312/FUL which was previously deemed acceptable. The Applicant should ensure that adequate parking has been supplied at the site in accordance with point 3.173 of the Leicestershire Highway Design Guide. Public Footpath H38 cuts through the access to the proposed development and request the inclusion of an informative. The LHA acknowledge the resiting of the previously approved dwellings and note there would appear to be no material impact upon the public highway.

MBC Environmental Health Officer (EHO): Does not object. The EHO highlights the site has the potential to be contaminated so recommends the inclusion of a number of conditions to protect future residents of the site.

Appendix B: Summary of representations received.

2 objections from one household and 2 neutral comments from another household have been received on the following grounds:

- a. Object to the increase in dwellings on the site and their resiting.
- b. Planning permission was given whilst holding the village to ransom over his pig farm, at the time he was told he could only have 3 dwellings, and see no reason to add to that.
- c. The exit from the property is on a busy road with limited visibility.

Neutral Comment

- a. Do not object to the addition of a 4th dwelling on the site.
- b. Would like reassurance that the existing hedgerow with the A607 would be retained.
- c. Prefer the south facing front elevations and rear gardens to the north.

Appendix C: Suggested Reason for Refusal

1. The proposed development would be located beyond the edge of Kirby Bellars within the open countryside. The proposed additional dwelling is considered to not fall within a development type that is necessary or appropriate within the open countryside. The proposed additional dwelling is therefore contrary to the aims of Policy SS2 of the Melton Borough Council Local Plan. There are no identified wider public benefits to the scheme as required by Policy SS3 of the Melton Borough Local Plan, or an identified need for the proposed development which would outweigh the clear conflict with the core aims of the Local Plan.

Appendix D: Available Development Management Policies

Local Plan Policies

SS2 Development Strategy

SS3 Sustainable Communities (unallocated sites)

C9 Healthy Communities

EN1 Landscape

EN2 Biodiversity and Geodiversity

EN6 Settlement Character

EN8 Climate Change

EN12 Sustainable Drainage Systems

IN2 Transport, Accessibility and Parking

D1 Raising the Standard of Design