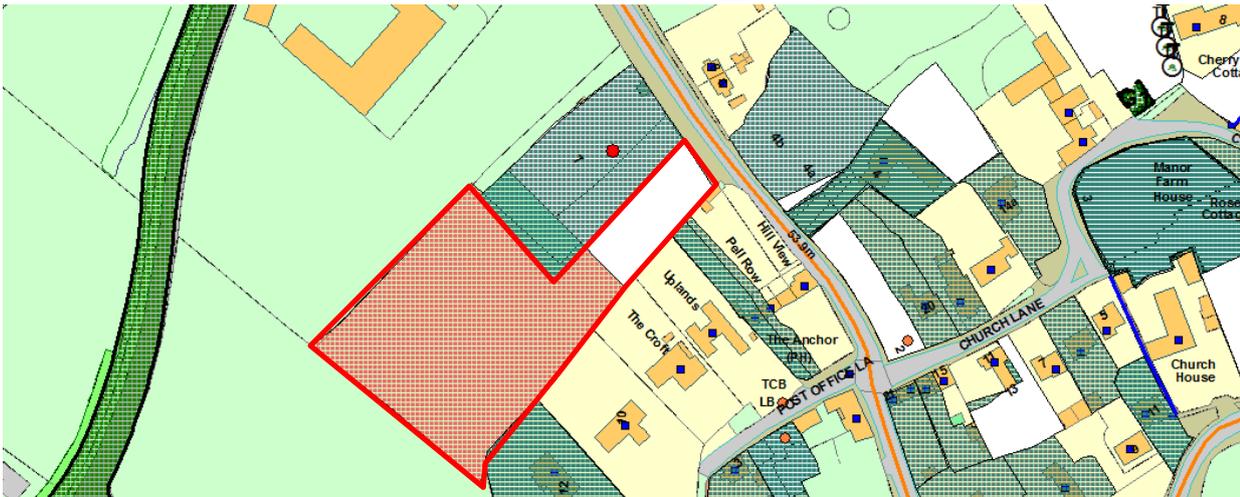


**Reference:** 17/00537/FUL  
**Date submitted:** 03.05.2017  
**Applicant:** Mr Leon Dolby  
**Location:** The Wicket, 7 Granby Lane, Plungar NG13 0JJ  
**Proposal:** Change of use of paddock land to garden use (retrospective)



**Proposal :-**

This application seeks **full planning permission** for the change of use of land from paddock to residential.

**It is considered that the main issues arising from this proposal are:**

- **Compliance or otherwise with the Development Plan and the NPPF**
- **Impact upon the character of the area and open countryside**
- **Impact upon residential amenities**

The application is presented to the Committee due to the amount of representation that has been received and the request by a Ward Councillor to ‘call in’ this application.

**History:-**

03/00924/COU - Proposal for change of use from paddock to residential curtilage for no. 7 Granby Lane;  
**REFUSED**

**Planning Policies:-**

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

**Policy OS2** - does not allow for development outside the town and village envelopes shown on the proposals map **except** for development essential to the operational requirements of agriculture and forestry, and small scale development for employment, recreation and tourism.

**Policy BE12** – will not be granted for development within a Protected Open Area unless it is in conjunction with an existing use and the development would adversely affect the character of the area.

**The National Planning Policy Framework introduces a ‘presumption in favour of sustainable development’ meaning:**

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out -of- date, granting permission unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

**The NPPF offers direction on the relative weight of the content in comparison to existing Local Plan policy and advises that whilst the NPPF does not automatically render older policies obsolete, where they are in conflict, the NPPF should prevail.**

It also establishes 12 planning principles against which proposals should be judged. Relevant to this application are those to:

- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- recognising the intrinsic character and beauty of the countryside

**On Specific issues it advises:**

**Conserving and enhancing the natural environment**

- Encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value
- Aim to conserve and enhance biodiversity by taking opportunities to incorporate biodiversity in and around developments

This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. (NPPF para. 12)

**Consultations:**

<b>Representations</b>	<b>Assessment of Head of Regulatory Services</b>
<p><i>Barkestone, Plungar &amp; Redmile Parish Council</i>                      The dwelling which was built in open countryside has under gone substantial extension which encroached into land designated as a Protected Open Area. This exceptionally large property already has a substantial garden, to then include this parcel of land as part of the property's curtilage would not be sensitive to the overall landscape setting &amp; would serve to erode the distinctive qualities of Plungar's place, rural heritage &amp; tranquillity.                      This important landscape should be safeguarded which is consistent with the NPPF, The draft Local Plan &amp; the old plan.</p> <p>The Parish Council is also aware of motocross activities on this land which has caused much distress &amp; disruption to the owners of the properties which back onto this land.</p>	<p>Whilst policy BE12 (relating to a protected open area (POA)) is a ‘saved’ local plan policy from the 1999 Melton Local Plan, the evidence base being prepared to inform the new Melton Local Plan has reviewed all of those areas currently afforded the POA status under the new ‘Local Green Space’ designation and criteria as defined with the NPPF (paragraph 77). As such Policy BE12 is considered to be incompatible with the NPPF and, under para 215 of the NPPF, the content of the latter should take precedence.</p> <p>Plungar’s POA’s have been reviewed using the criteria for LGS in the ‘Areas of Separation, Settlement Fringe Sensitivity and Local Green Space Study’ September 2015.</p> <p>This has established that the application site is not suitable as a ‘Local Green Space’. It is classed as a Large open space adjacent to modern development. It has limited public visibility and does not relate well to settlement character. This</p>

	<p>property is acknowledged to have a substantial garden but to prevent it having a larger one would not be a reasonable reason to refuse this application. The private nature of this space furthers this argument.</p> <p>The application is required to be considered on the basis of its impacts, on both the character and appearance of the area and residential amenity.</p> <p>Changing the use of this land to residential is not considered to be unduly harmful as this site is well enclosed, a very private space and a distance from the highway edge. Furthermore, as conditions can be imposed to restrict further structures and other household 'paraphernalia' the site would remain 'open' and undeveloped in character and it considered that on balance the character impacts are not severe enough to warrant refusal.</p> <p>The motorcross use will be discussed below but due to the frequency of occasions this is taking place it is not considered a planning matter.</p>
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**Representations:**

A *site notice* was posted and neighbouring properties consulted. As a result **10 representations** from **6 different households** object, **the details of these are detailed below.**

<b>Representations</b>	<b>Assessment of Head of Regulatory Services</b>
Concerns that any change of use will ease the way to possible future development.	The application is not for any buildings. A condition can be imposed to restrict any further development on this land. Any development will need to be applied for.
The majority of the site is designated agricultural land 3b and should be protected in its own right for that reason.	Noted but the enclosed, small nature of this site means that the likelihood of it being used and suitable for agriculture is small.
A previous application, 03/00924/COU 28 November 2003 for the same change of use on the site was rejected by MBC	That application was for a smaller site, it is considered that the site does not play a significant part in the landscape for the reasons explained at page 3 above (in response the comments from Parrish Council).
The land has always been agricultural and provides a pleasant entrance to the whole village, it should remain so	As above, being an enclosed space very close to this residential property, this argument is not supported.
Previous decision was dismissed by a planning inspector who commented the development would "distract from pleasant view of the village entering from Granby".	Previous decisions are considered material considerations but in this instance it is considered that owing to the time that elapsed, different planning considerations need to be applied and in this instance the proposal is acceptable.
<p><b><i>Quad bike activities</i></b></p> <p>1 and 4 of policy 123 of the NPPF, particularly relating to excessive noise on the occasions that the paddock is used for motocross activities and its proximity to nearby dwellings.</p> <p>. The most recent correspondence has shown quad bike activities have been on site during the following periods:-</p>	<p>The LPA has been made aware of the issues surrounding the motocross use of this site and has received information including the purpose and frequency of use.</p> <p>In summary, the use of the land for motocross is a domestic use that could take place on any residential land if its size permitted and as such is</p>

<p>May 2nd 4.30-5.30pm  May 22nd - 5.00 - 7pm  May 23rd - 4.30 - 6.00pm  May 24th - 4.30 - 6.00pm  May 25th - 4.30 - 6.00pm  May 2th - 4.30 - 6.00pm  May 30th - 5.00 -6.00pm  May 31st - 12 noon - (not sure when finished)  June 13th - 4.30 - 6.00pm  June 15th - 5.00 - 6.00pm  June 17th - 4.00pm -</p>	<p>not a change of use. It is an intermittent occurrence, only used when weather permits and by the children that occupy the house. This goes on for no more than 2 hours (see opposite).</p> <p>For the purposes of comparison, Permitted Development would allow the use for this purpose for up to 14 days per year even without an application (or is this application was to be refused).</p> <p>Such issues of noise can be controlled by other means of intervention including Environmental Pollution legislation and planning controls should not be used to duplicate or back up other forms of control. The instances recorded are not judged to be a material change of use.</p>
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**Other Material Considerations, not raised through representations:**

<b>Consideration</b>	<b>Assessment of Head of Regulatory Services</b>
<p><b>Planning Policies and compliance with the NPPF</b></p>	<p>The application is required to be considered against the Local Plan and other material considerations. The proposal is contrary to the local plan policy OS2; however, the NPPF is a material consideration of some weight.</p> <p>The NPPF does not give comprehensive guidance on applications of this type but does highlight the need to have up to date assessments of open space that this application is relied upon, showing the land in question poses limited significance in the village.</p> <p>However, the 1999 Melton Local plan is considered to be out of date and as such, under pars 215 of the NPPF can only be given limited weight.</p> <p>This means that the application must be considered under the ‘presumption in favour of sustainable development’ as set out in para 14 which requires harm to be balanced against benefits and refusal only where “any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”</p>
<p><b>The (new) Melton Local Plan – Pre submission version.</b></p> <p>The Pre Submission version of the Local Plan was agreed by the Council on 20<sup>th</sup> October and is currently in a period of consultation from 8<sup>th</sup> November – 19<sup>th</sup> December.</p> <p>The NPPF advises that:  From the day of publication, decision-takers may also give weight to relevant policies in emerging</p>	<p>Whilst clearly the Local Plan has progressed by advancing to Pre-submission stage, it remains in preparation and as such can be afforded only limited weight. This is also reduced by the fact that there has yet been any consideration of the consultation responses received.</p> <p>It is therefore considered that it can attract weight</p>

<p>plans according to:</p> <ul style="list-style-type: none"> <li>● the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);</li> <li>● the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and</li> <li>● the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).</li> </ul> <p>The Pre Submission version of the Local Plan identifies Twyford as a ‘rural settlement’ in respect of which, under Policy SS3, development of up to 3 dwellings would be acceptable, subject to satisfying a range of criteria specified.</p> <p>Policy EN6 states that Development proposals will be supported where they do not harm open areas which contribute positively to the individual character of a settlement.</p>	<p>but this is quite limited at this stage.</p>
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### **Conclusion**

The proposal is for a change of use of land that according to the most recent appraisal by Influence Landscape Architects in September 2015 is of very limited value. The proposed change of use to garden is considered to be development that will not change significantly the character of the area. In addition to this, conditions will be imposed to restrict the development of any buildings etc. without consent of the LPA.

**In conclusion it is considered that, on the balance of the issues, the proposal is acceptable, but it is accepted that this is a finely balanced case.**

Applying the ‘test’ required by the NPPF that permission should be granted unless the impacts would “significantly and demonstrably” outweigh the benefits; it is considered that permission can be granted.

**Recommendation: Approve subject to conditions:**

1. The development shall be begun before the expiration of three years from the date of this permission.
2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any subsequent re-enactment with or without modification) no building operations shall be carried out within this approved site without first being approved by the Local Planning Authority in Writing.
3. The development hereby permitted shall be in accordance with the location plan received by the local planning authority on 11<sup>th</sup> May 2017

Reasons:

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.
2. In the interests of visual and residential amenity.
3. For the avoidance of doubt.

Officer to contact:

**Mr G Baker-Adams**

**Date: 14<sup>th</sup> July 2017.**