

**Reference:** 17/00477/FUL

**Date submitted:** 27 April 2017

**Applicant:** Mr and Mrs Halford

**Location:** Owl End 24 Mill Lane Frisby on the Wreake

**Proposal:** Full planning approval for the erection of two detached dwellings



**Proposal :-**

This application seeks **full planning permission for the erection of 2 dwellings.**

The application site comprises 0.16 hectares on the northern edge of Frisby on the Wreake. The site is currently utilised as amenity area associated with Owl End positioned to the south of Mill Lane, the southern boundary of the site adjoins 22 Mill lane, to the east of the site is arable land.

The site is separated from Owl End by garden planting and there is tree and shrub planting along the remaining three sides of the property. The site itself is laid to grass, with a range of shrubs and fruit trees in the centre. The site lies outside, but adjoins the Frisby on the Wreake Conservation Area.

**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**
- **Impact upon residential amenities**
- **Sustainable development**

The application is required to be presented to the Committee due to the level of public interest.

### **History:-**

There is no planning history related to this site but there have been a range of approvals for works to trees at Owl End.

### **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 BE1** - allows for new buildings subject to criteria including buildings designed to harmonise with surroundings, no adverse impact on amenities of neighbouring properties, adequate space around and between buildings, adequate open space provided and satisfactory access and parking provision.

**Policy C15:** states that planning permission will not be granted for development which would have an adverse effect on the habitat of wildlife species protected by law unless no other site is suitable for the development Policy C16.

#### **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:

- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.
- 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
- promote mixed use developments, and encourage multi benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation
- Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
- Take account of the different roles and characters of different areas, promoting the vitality of urban areas, recognising the intrinsic character and beauty of the countryside and support thriving rural communities.

**On Specific issues it advises:**

**Promoting sustainable transport**

- Safe and suitable access to the site can be achieved for all people
- Development should be located and designed (where practical) to give priority to pedestrian and cycle movements, and have access to high quality public transport facilities.
- Create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians
- Consider the needs of people with disabilities by all modes of transport.

**Delivering a Wide choice of High Quality Homes**

- Housing applications should be considered in the context of the presumption in favour of sustainable development.
- LPA's should identify land for 5 years housing supply plus 5% (20% if there is a history of under delivery). In the absence of a 5 year supply housing policies should be considered to be out of date.
- deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities
- identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand

**Require Good Design**

- Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- Planning decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

**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:**

Consultation reply	Assessment of Head of Regulatory Services
<p><b>Highways Authority: No objection, subject to condition</b></p> <p>The applicant has submitted ADC Drawing No. ADC1531/001 Rev A, which indicates the widening to Mill Lane has been removed, for clarity the CHA do not consider this widening is required. The CHA are not averse to the removal of the trees, however consider that the removal would be to the benefit of the applicant as opposed to the wider community. Two new semi-mature trees should be provided for each highway tree which is removed.</p> <p>The submitted cross section indicates that the retaining wall is generally set well back from the highway, however it does curve round and extend beyond the highway boundary into highway land, albeit reducing in height (presumably) to reflect the reduction in ground levels.</p>	<p>Amended details were submitted as a result of initial highway comments requesting additional information.</p> <p>The proposal will introduce a new access point, the proposed access will be approximately 40 metres east of the right-angle bend in Mill Lane. At that location Mill Lane is a single Lane, widening was initially proposed by the applicant, however the Highway Authority have confirmed that this is not necessary.</p> <p>The proposed access can demonstrate sufficient distances to meet visibility requirement.</p> <p>The Highways Authority have not expressed concern over the suitability of the proposed access</p>

<p>That wall is designed to retain the bank, thus providing the private access and an access around the garage.</p> <p>If the wall were to collapse (toward the private drive or towards the garage), it is considered it would have no impact on the highway.</p> <p>On this basis, the CHA is satisfied that the wall does not need further technical approval.</p> <p>Philip James Architecture Drawing No 17/01/001 Rev B indicates sufficient parking and turning space has been provided within the development, and it is therefore considered that proposals would not lead to inappropriate parking or cause vehicles to reverse into the highway.</p> <p><b>Subject to the imposition of conditions the CHA does not consider this development will have a severe impact on the highway in accordance with Paragraph 32 of the NPPF.</b></p>	<p>and have suggested conditions requesting additional details to further ensure its suitability.</p> <p><b>There are considered to be no grounds to resist permission based on highways issues.</b></p>
<p><b>Parish Council: Objects</b></p> <p>The Parish Council objects on the following basis</p> <ul style="list-style-type: none"> <li>● The site is outside the current village envelope and the proposed limits to development which are contained in the Frisby Neighbourhood Plan</li> <li>● This area of Mill Lane floods regularly and vehicular access is often compromised.</li> <li>● The increase in traffic will be a major problem and the proposals to widen the access will impact on an historical cobbled area of the village.</li> <li>● The proposed houses will be up a raised bank and therefore dominating an area of natural beauty in the village. It is an invasive development that is not in keeping with other cottage type properties in the area.</li> <li>● It is noted that part of the development includes a granny annexe but there does not appear to be an access from the main house into the annexe. This would make it appear to be a separate dwelling.</li> </ul>	<p>Policy related comments are considered and addressed further down in the Planning Policy response.</p> <p>The site is located within Flood Zone 1, according to the Environment Agency, the risk of flooding is below 0.1% (1 in 1,000) conditions can ensure that suitable methods of drainage are submitted to the Local Planning Authority prior to the commencement of any development.</p> <p>The proposal is for the erection of two dwellings, the number of cars and their daily trips that can be reasonably associated is not considered as major or likely to result in a severe impact (please refer to the comments of the County Highway Authority above).</p> <p>The proposed dwellings will be on the lower parts of the site with the surrounding embankments reducing the impact of the development on the surrounding landscape, character of the area is discussed fully later in the report.</p> <p>The proposed annexe is physically attached to the dwelling and would be built above the proposed gorge, access to and from this annexe would be the same as the proposed dwelling a condition could be used to secure the use of the annexe for ancillary living accommodation only.</p>

**Representations:**

A Site notice was posted and neighbouring properties consulted. As a result **5 letters of objection have been received and 6 letters of support**, the representations are detailed below:

<b>Representations</b>	<b>Assessment of Head of Regulatory Services</b>
<p><b>Highway Safety</b></p> <p>Mill Lane is a single track, cul-de-sac and is used daily by multiple people a mix of pedestrian and car traffic will only add to road safety fears.</p> <p>The local infrastructure cannot take the additional traffic in this area. Nearby tight blind bend and the existing straight out on to the road with little or no viewing sight.</p> <p>No footpath within the area so pedestrians are in the road already.</p>	<p>Removal of some existing trees will be undertaken should the application be approved, these will improve the visibility splay to and from the proposed access point. Drawings submitted demonstrate that sufficient space is available within the application site for vehicles to turn and leave the site in a forward gear.</p> <p><b>As per comments of the County Highway Authority, subject to conditions the proposal is considered acceptable in terms of highway safety.</b></p>
<p><b>Local Plan</b></p> <p>This development is outside the village envelope.</p>	<p>The application is required in law 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 significance because of its commitment to boost housing growth.</p> <p>The 1999 Melton Local Plan is considered to be out of date and as such, under para 215 of the NPPF can only be given limited weight.</p> <p><b>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”.</b></p> <p>The NPPF advises that local housing policies will be considered out of date where the council cannot demonstrate a 5 year land supply and where proposals promote sustainable development objectives it should be supported.</p> <p>The council can demonstrate a five year land supply however this, on its own is not considered to weight in favour of approving development that is contrary to the local plan where harms are identified, such as being located in an unsustainable location. A recent appeal decision (APP/Y2430/W/16/3154683) in Harby made clear that ‘a supply of 5 years (or</p>

	<p>more) should not be regarded as maximum.’ Therefore any development for housing must be taken as a whole with an assessment of other factors such as access, landscape and other factors.</p> <p>The site is a greenfield site. It also lies outside of but adjoins the village of Frisby on the Wreake. However the harm attributed by the development is required to be considered against the benefits of allowing the development in this location. The provision of one smaller and one self build dwelling meeting identified housing needs is considered to offer some benefit, along with promoting housing growth albeit of limited scale.</p> <p><b>The proposal would provide a small amount of housing in the Borough and would contribute to land supply. There would be some impact upon the appearance of the area, but given the small scale of the development this impacted is very limited.</b></p> <p><b>The form of development is considered to be acceptable and the benefits of the proposal outweigh these concerns. It is therefore considered to be in accordance with the core planning principles of the NPPF.</b></p>
<p><b>Flooding</b></p> <p>Mill Lane has a long standing history of flooding, the building of at least 48 houses on land off Great Lane due south of this site can only exacerbate this perennial problem.</p>	<p>The Planning Authority has to consider each application on its own merit, conditions could be attached to a permission that would ensure that details of the proposed drainage are submitted to the Local Planning Authority prior to any development commencing.</p>
<p><b>Character of the area</b></p> <p>The proposed houses are out of character and not in keeping with other properties in the area.</p> <p>The size and elevation of these building will further detract from the natural beauty of the area and will be seen quite clearly from the road.</p> <p>By widening the road at this point you are removing some of the natural beauty and historical look of this area (removing green land).</p>	<p>Whilst the site is residential garden area and therefore considered as greenfield, it relates well to the village and would not be isolated in form.</p> <p>The proposed dwellings will lie on the lower parts of the site. The smaller house will face Mill Lane and would follow the landform as per existing built form in that location.</p> <p>Amended plans show that the widening of Mill Lane has been removed from the proposal.</p>
<p><b>Other issues raised</b></p> <p>Neighbouring properties will be overlooked and impeded by this development.</p> <p>Mill Lane has a history of development applications beginning in 1984 some of which were refused on grounds of traffic and drainage.</p>	<p>The proposal is to be set into the site which would minimise the visual impact from the development. Windows positions on the proposed elevations demonstrate that no significant overlooking would be caused by this proposal.</p>

<p>Since these refusals houses have been built on Mill Lane which has resulted in an increase in pedestrian traffic on the lane which has no footpaths.</p>	<p>Planning Policy has changed since the 1980's with particular reference to the introduction of the NPPF, this as mentioned above sets a presumption in favour of sustainable development, the application as submitted is required to be determined on its own merits.</p>
<p><b>Letters of support</b></p>	
<p>The scheme is well designed and would have minimal impact on residents of Mill Lane.</p> <p>This development is a natural expansion of an existing residential site and makes effective use of the space in keeping with the surroundings.</p> <p>The village need to embrace small projects such as this which support organic growth in the heart of the village.</p> <p>Owl End is an attractive cottage and the garden is right for development.</p> <p>The proposed builds are a lot more in keeping with the village, living in a village is totally different to being a commercial developer.</p> <p>The design should be encouraged</p> <p>These dwelling should provide a useful additional to residential facilities without detriment to existing properties or access.</p> <p>The proposed dwellings when complete will have no negative impact on the surrounding area, as they are set back from the lane.</p> <p>The plan has space for ample car parking.</p> <p>The plan is sympathetic to the village life and ethos in that it is designed for families and retired residents.</p> <p>The village envelope that is proposed unfortunately runs through the garden of Owl End, this makes an interesting application, if the building is inside the village envelope it would add to the forced number of houses that Frisby has to take under the MBC building allocation.</p> <p>If the property falls outside the envelope then this surely becomes a different matter altogether.</p> <p>The problem suggested with traffic will be nothing compared to the volume of traffic that is</p>	<p>Noted.</p>

<p>potential going to be moving in and out of the top of Great Lane which is just as narrow.</p> <p>This area is well suited for ‘windfall’ development. The plans are discrete and in keeping with existing buildings.</p>	
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**Other Material Considerations not raised through representations:**

Consideration	Assessment of Head of Regulatory Services
<p><b>Planning Policy</b></p> <p><b>Frisby Neighbourhood Plan</b></p> <p>Policy H3:Limits to Development states that “Development Proposals within the Neighbourhood Plan area will be supported on sites within the Limits to Development (as identified in figure 6 of the Neighbourhood Plan) where it complies with the policies of the Neighbourhood Plan and subject to design and amenity considerations</p> <p><b>The application site is outside and adjoins the boundary of the ‘limits to development’ identified in the Neighbourhood Plan. The applicable Policy, H3, does not ‘rule out’ development beyond the limit to development nor has it been identified that this site is subject of ‘protective’ policies of the Plan in terms of important views, biodiversity, heritage assets etc.</b></p> <p>Paragraph 216 of the NPPF states that weight may be given to relevant policies in emerging 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 the relevant policies ( the less significant the unresolved objections ,the greater 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 Frisby NP has recently completed the Local Authority publicity period (July 2017) and is yet to be examined or be the subject of Referendum.</p> <p>The application site lies outside the identified ‘limits to development’ but does not appear to be directly in conflict with associated Policy H3 as it is silent on the approach to development sites in such locations. Other polices seek to resist development in ‘sensitive’ locations such as important views etc. mentioned opposite.</p> <p>In order to consider the weight it should attract, each of the NPPF criteria are addressed in turn:</p> <p><b>The stage of preparation of the emerging plan</b></p> <p>The Frisby Neighbourhood Plan is at Regulation 16 Consultation stage. This is the final stage of consultation, the next stages are:</p> <ul style="list-style-type: none"> <li>• For MBC to arrange (independent) Examination (in hand).</li> <li>• Examination results received and NP Group respond - it is here that they choose whether to proceed to Referendum, either with or without amendments, depending on the outcome of the Examination.</li> <li>• MBC (authority is vested in the REEA Committee) similarly decide if it should proceed to Referendum</li> <li>• Referendum (plus some minor administrative steps to allow it to be ‘made’)</li> </ul> <p>Section 70 of the Act has recently been amended to require that post examination Neighbourhood Plans be treated as a material consideration in the determination of planning applications. The Frisby NP is not yet at that stage and, accordingly, can only be given less weight than required by this Act.</p> <p><b>The extent to which there are unresolved objections to the relevant policies</b></p> <p>There are unresolved objections to the policies in the plan and there is an inconsistency between the emerging Neighbourhood and Local Plans.</p>



These are matters which an Examination will have to resolve. This could result in amendments being required before the NP plan proceeds to a referendum. It cannot be assumed that the Plan will proceed in its current form. In accordance with the NPPF it is reasonable to give less weight to the emerging NP on the basis of unresolved objections.

**The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework**

The emerging NP appears to have disregarded the robust and detailed assessment of sites in the emerging local plan, which have been assessed in accordance with the NPPF and has applied locally derived criteria as a means to deciding site selection. On the village envelope, it advises that clearly defined physical features such as walls, fences, hedgerows and roads have been used

In this part of the village the proposed limit to development boundary follows the old village envelope boundary which cuts through gardens and doesn't always follow clearly defined features. Consequently, while the site is outside this line the value of the boundary in this part of the village is questionable.

**Making a decision – the planning balance**

If planning permission were to be refused on the basis of the emerging NP it would have to be because the adverse impacts of any potential conflict with the NP must be given such weight as to significantly and demonstrably outweigh the benefits of residential development in this sustainable location .

In addition to the NPPG, advice on the weight to be given to Neighbourhood Plans (NP) is provided by the Neighbourhood Planning Act 2017. This states that a post-examination (but still 'unmade') neighbourhood plan should be taken into account in the determination of planning applications. The Frisby NP is not at that stage.

There are several representations received to the Neighbourhood Plan and as such it is considered that its content - including its site selection proposals – are not resolved. These areas of contention will be going forward to independent Examination for adjudication.

This examination will provide adjudication on the differences between the sites allocated in the NP those proposed by the Planning Authority in the pre-submission local plan and the comments of all

	<p>interested parties, including opposition to the site sections it proposes.</p> <p>Therefore, it is considered that the neighbourhood Plan is susceptible to the NPPF criteria that “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)” – the objections concerned are considered to be clearly unresolved and very significant to the content of the NP.</p> <p>Therefore it is considered that whilst the Neighbourhood Plan is progressing well, it can still carry only limited weight in the determination of this application.</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 was subject to consultation which ended on 16<sup>th</sup> December 2016.</p> <p>The Draft Local Plan Addendum of Focussed Changes is currently subject to consultation which ends on 23<sup>rd</sup> August 2017.</p> <p>The NPPF advises that: From the day of publication, decision-takers may also give weight to relevant policies in emerging 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 Framework, the greater the weight that may be given).</li> </ul> <p>The Pre-Submission version of the Local Plan identifies Frisby on the Wreake as a ‘Rural Hub’, in respect of which, under Policy SS2, three sites and a reserve site are allocated for residential development in the village.</p>	<p><b>Whilst the Local Plan has progressed it remains in preparation, it can be afforded only limited weight.</b></p> <p>It is therefore considered that it can attract weight but this is quite limited at this stage.</p>

### **Conclusion**

It is considered that the application present a balance of competing objectives and the Committee is invited to reconcile these in reaching its conclusion.

This application presents a limited number of housing that helps to meet identified local needs, accordingly, the application represents a vehicle for the delivery of housing of the appropriate quantity, in proportion with the development and of a type to support the housing need. Frisby on the Wreake is considered to be a sustainable location with a reasonable range of facilities and capacity to accommodate some growth. It is considered that there are material considerations of weight in favour of the application.

The site is considered to perform reasonably well in terms of access to facilities and transport links, particularly to Melton Mowbray.

It is considered that balanced against the positive elements are the specific concerns raised in representations, particularly the development of the site from its green field state and the impact on the character of the village.

**In conclusion it is considered that, on the balance of the issues, there are benefits accruing from the proposal when assessed as required under the guidance in the NPPF in terms of housing supply. The balancing issues – development of a green field site are considered to be of limited harm.**

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: PERMIT, subject to:-**

1. The development shall be begun before the expiration of three years from the date of this permission.
2. No development shall start on site until all external materials to be used in the development hereby permitted have been agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
3. The proposed development shall be carried out strictly in accordance with plan drawing numbers

17/001/01/LP  
17/01/001  
17/01/P1/001  
17/01/P2/001

received by the Authority on 13 April 2017.

4. 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.

5. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 39 metres westbound and 2.4 metres by 43 metres eastbound 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.

6. Notwithstanding the submitted plans, the proposed access shall have a width of a minimum of 4.25 metres, a gradient of no more than 1: 12 for a distance of at least 5 metres behind the highway boundary and shall be surfaced in a bound material with a 5.5 metre wide dropped crossing. Drainage shall be provided so water does not drain into the Public Highway and the access once provided shall be so maintained at all times.

7. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Philip James Architecture drawing number 17/01/001 Rev B. Thereafter the onsite parking provision shall be so maintained in perpetuity.

8. No development shall commence on the site until details of a suitable replacement scheme for the highway trees that are removed as part of this Application has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

9. The annexe accommodation hereby permitted on Plot 2 shall be occupied solely by members of the

household of the principal dwelling, or their dependants as ancillary residential accommodation and it shall not be used or severed from the principal house and used as a separate and unconnected dwelling unit

Officer to contact: **Ms Louise Parker**

**Date: 4<sup>th</sup> August 2017**