

PLANNING COMMITTEE 30 November 2010
LIST OF LATE ITEMS RECEIVED AFTER PREPARATION OF MAIN AGENDA:

ITEM 01 **10/00743/OUT** **The Tin Hat Regeneration Partnership
LLP**

This item has been deferred to a meeting to be arranged week commencing 13 December 2010, the suggested date is Tuesday 14 December 2010.

ITEM 02 **10/00590/FUL** **Mr Michael Akins**

Introduction:-

Amended plans have been received reducing the number of stables by two and re-designating them to a feed store and general store. Two other stables are designated foaling stables. The agent has also confirmed the applicant's intention is not to run the enterprise as a commercial basis to comply with the condition requested by Director of Environment and Transport (Highways).

Consultations:-

One letter in support has been received stating that there has always been a commercial livery at 34 Fern Crescent, and as the existing commercial livery is closing Groby needs alternative livery facilities to prevent excessive travelling.

Eight additional letters of objection have been received raising no additional concerns.

Groby Parish Council comments:-

The Parish Council strongly objects to this application on the following grounds:-

Highways - The application requires a new entrance to be formed off the dangerous A50 dual carriageway at a point where the national maximum speed limit is applicable. This would significantly add to the highway dangers at that point potentially increasing the risk of an accident due to slow moving traffic vehicles from the Leicester direction such those towing horse trailers, large horse boxes and caravans having to slow to an almost stop for the safety of horses being carried and having to partially "swing" out into the overtaking lane to be able to turn into the site. In addition access will be required to the site from the Leicester bound carriageway and the application proposes that this slow moving towing traffic crosses the central reservation into the site, this should not be permissible due to the speed and ever increasing volume of traffic on the A50. Furthermore, the Parish Council is seriously concerned that Leicester bound traffic having to turn away from Leicester to exit the site will either attempt U turns at the crossing point currently used by Quinto Crane or alternatively form a "rat-run" along narrow and congested estate roads by turning right at the Lena Drive traffic lights, where there is no safe dedicated right turn lane, with this slow moving traffic rejoining the A50 dual carriageway from Wallace Drive. The Parish Council at this point wishes to point out that there is clear evidence that the applicant intends to establish a commercial Livery and Equestrian centre and considers that the traffic levels created by this new business with an access off the A50 dual carriageway will be at a significant level, particularly if organised events are held, as is very likely at the "international size ménage". Such events if held would attract spectator traffic as well as contestants/participants and this could also lead to additional unacceptable congestion on Fern Crescent as the application for a "Riding Centre" (the description being an inadvertent slip) clearly refers to a pedestrian access from Fern Crescent. Why the need to refer to a pedestrian access from Fern Crescent if the application is solely for the domestic use of the applicant who will be living at 34 Fern Crescent? Surely, the domestic access from within a property to its' back garden or rear paddock would not normally have to be referred to in a planning application.

The Parish Council also wishes to point to the conditions of the earlier planning consent 82/0648/4 which required use to stop and the site to be cleared after the temporary permission had expired, this was not followed by any new application to renew the consent. There is also the fact that this was very low level personal use by a previous owner of the site at a time prior to the construction of the A46 Leicester

Western Bypass when traffic on that stretch of the A50 was at considerably lower levels. The Parish Council would also like to point out that this unauthorised use had not continued without break prior to the purchase of the land by the applicant.

General Grounds for Objection:-

In the 2009 HBBC LDF Site Allocations and Generic Development Control Policies Development Plan Document Consultation Draft Preferred Options - Appendix 6 Alternative Options considered, the application site is assessed under reference 270 and the Parish Council wishes to refer to points raised "The SHLAA provides evidence that the site is of ecological interest and when providing other justification for non-development, the Directions of Growth Document 2007 argues that there is a need to avoid development in or adjacent to these sites" and "entrance points off the A50 have been rejected due to highway concerns".

It is interesting to note that the SHLAA assessment does not refer to any existing use or current as a "Riding Centre", "Livery Yard" or "Equestrian Centre".

The Parish Council wishes to place on record the claims of the applicant that a premium was paid for site as a commercial business and that the applicant intends to establish a commercial Equestrian Centre/Livery business.

Not only must this be unacceptable in Highway terms, it is contrary to the planning principle established in 82/0648/4 and such increased use and intensive grazing by the horses accommodated by 13 stables would certainly degrade the ecological importance of the site as identified in the SHLAA assessment.

The Parish Council does not believe that any planning condition to restrict the use of the site to personal and domestic use could be enforced due to a lack of enforcement resources and the burden of proof required to establish that payment is being taken for services being provided and that this should be viewed in the context of the evidence that statements have been made by or on behalf of the applicant that a premium was paid for the site having been purchased as a commercial business, the site was purchased with the intention to establish and expand an Equestrian Centre/Livery Yard business.

Additional Objections:-

The number of stables proposed and the number of horses these stables will accommodate will be too much for one person (particularly a mother with small children) to feed, groom, muck out and exercise. Therefore, staff will have to be employed and toilet and washing facilities will have to be provided, as well as additional parking.

Effluent will also be generated by washing out stables, yet the application only offers a cesspit which is clearly unacceptable, particularly on such a sloping site. The absence of a proper drainage and effluent containment system could have a detrimental affect on the ecological balance of a site containing important flora and fauna.

The Parish Council wishes to draw attention to the "loose" wording in section 4.0 (p.2) of the design and access statement "The building has been positioned to form a compact centre for equestrian training and improvement", Surely, this suggests a commercial purpose? The "loose" wording in section 7.0 (p.2) "The intention is for the building to form a cohesive unit together with the ménage, for the purpose of equestrian training and development of rider skills". This again could suggest a commercial objective as "rider skills" could easily mean multiple riders as the application and the design and access statement carefully avoids any reference to whether the application is for individual personal use of the applicant (which the earlier expired consent was restricted to) or business/commercial use, other than the reference in the planning application form at section 14 where the existing use is claimed as "Riding Establishment" that in itself suggests commercial use.

From the claims and statements made by the applicant or his representatives, Groby Parish Council is in no doubt that the purpose of the application is to establish a commercial Equestrian/Livery Yard business and has further concerns that if this application is granted that the proposed access road will establish the principle of development and that if sold in the future the use could be expanded and that applications could follow for residential use of the site (initially for "staff") to support the use of the site

and care of the horses, this could be caravans or static mobile homes which would then require services to be brought into the site. This is not acceptable off the busy A50 dual carriageway!

Appraisal:-

Under planning history insert:-

However, no Certificate of Lawful Existing use has been applied for or granted and therefore the site has no lawful use.

ITEM 03

10/00640/OUT

Johal And Kler Partnership

Consultations:-

Following further consultation on the amended plans as requested by members the following consultation responses have been received:-

Directorate of Chief Executive (Archaeology):- No comments

Director of Environment and Transport (Highways):- No objection subject to conditions

Directorate of Chief Executive (Ecology) :- No further comments

Environment Agency- No further comments.

Head of Community Services (Pollution):- The plans show an increase allocation for industrial use on the site, with the potential of moving noisy activity closer to more houses than previously considered resulting in the noise report requiring further consideration. However the initial comments adequately covers this.

Head of Community Services (Land Drainage):- No further comments.

One further letter of objection has been received supporting the officer's recommendation within the initial report and specifically points out that no consideration has been made to other sites within Bagworth or to the SHLAA, both of which should be considered by members.

Recommendation:-

Additional condition to secure the correct proportion of employment use on the site.

ITEM 04

10/00665/ADV

**Hinckley And Bosworth Borough
Council**

Consultations:-

The consultation period has expired with no further representations being received.

Recommendation:-

Recommendation: - Permit subject to the following conditions:-

ITEM 05

10/00666/LBC

**Hinckley And Bosworth Borough
Council**

Consultations:-

The consultation period has expired with no further representations being received.

Recommendation:-

Recommendation: - Permit subject to the following conditions:-

ITEM 06

10/00727/TEMP

Mr Lyons

Introduction:-

This application has been withdrawn.

ITEM 07

10/00757/FUL

Mr J Dawson

Consultations:-

Nailstone Parish Council fully support this application.

Recommendation:-

Add plan nos. in condition 2.

ITEM 09

10/00783/FUL

FP McCann

Consultations:-

No objection has been received from Chief Executive, Leicestershire County Council (Minerals).

ITEM 10

10/00793/FUL

Mr L Ward

Recommendation:-

Add Policy T5 to Reason 11.

ITEM 11

10/00816/FUL

Mr Martin Morris

Introduction:-

Confirmation has been received on behalf of the applicant that there was an error in the Agricultural Appraisal submitted, in that the building granted permission under a General Permitted Development Order application in 2008 was for storage of equipment and not for livestock.

Consultations:-

The Council's Agricultural Appraisal Consultant has considered the agricultural information supplied by the applicant and has advised that there is no agricultural support for the proposed dwelling at the present time, as the relocation to this site proposed in 2003 has not taken place, the enterprise therefore fails the functional test as set out in Annex A to PPS7.

Further information has been submitted on behalf of the applicant in relation to commenting on the Council's Agricultural Appraisal Consultant's report. The information expresses disappointment that the Council's Agricultural Appraisal Consultant did not visit the site on this occasion to acquaint himself with the on-site position and addresses particular issues as follows:-

- a) disagrees that the 'insecure land' should be excluded for the purposes of the appraisal
- b) considers that management and welfare issues has been ignored

- c) considers that the dwellings at Brook House Farm and Roseway are irrelevant as neither can meet the functional test
- d) considers that there are discrepancies and assumptions in the report
- e) confirms that the applicant is now in a position to undertake the relocation
- f) confirms that the 820 ewe flock will not all be housed at any one time at New House Farm
- g) confirms that the Christmas poultry enterprise is to be reduced to approximately 1000 birds, and these birds will be housed in the new and existing buildings at New House Farm
- h) there are now 50 bucket fed calves on the site which require daily monitoring, care and attention.

Appraisal:-

Paragraph 2 of Annex A to PPS7 states 'It is essential that all applications for planning permission for new occupational dwellings in the countryside are scrutinised thoroughly with the aim of detecting attempts to abuse (e.g. through speculative proposals) the concession that the planning system makes for such dwellings.'

The report of the Council's Agricultural Appraisal Consultant states that his advice in 2003, which resulted in a dwelling being permitted on site was worded 'If this relocation is undertaken, I would consider it essential for one full-time worker to live at New House Farm to provide the required levels of supervision and security'. The relocation has not taken place since that time and the approval has now lapsed.

The Council's Agricultural Appraisal Consultant confirms that the current application fails the functional test contained within PPS7 and therefore advises that there is no agricultural support for the proposed dwelling at the present time. Financial information has been provided and the Council's Agricultural Appraisal Consultant has confirmed that a financial test of the accounts submitted has been undertaken in accordance with the guidance in paragraph 8 of the Annex and it is considered that the profit shown in the draft accounts for the year ended 31 March 2010 is able to pass the financial test to sustain a dwelling of the size and type proposed in the application. Therefore, the application complies with paragraph 3(iii) and paragraphs 8 and 9 of the Annex but fails paragraph 3 (i) and paragraph 4 of the Annex.

The agent has submitted comments on the report of the Council's Agricultural Appraisal Consultant which has been considered by the Council's Agricultural Appraisal Consultant and written confirmation has been received that his recommendation is unchanged.

A building is currently being erected on site but it has been assessed and it is not in accordance with the application approved in 2008 and is currently unauthorised. An enforcement investigation is being undertaken.

Conclusion

Both central government guidance and adopted Local Plan policies seek to protect the countryside for its own sake. An unsatisfactory agricultural appraisal has been received and the proposal has failed to pass the functional test of Annex A of PPS7. There is no special justification for the proposed dwelling in this countryside location and the application is therefore recommended for refusal.

Recommendation:-

Change Recommendation:-

Refuse for the following reasons

In the opinion of the Local Planning Authority, from the information provided, there is no agricultural support for the proposed dwelling as the enterprise fails the functional test set out in Paragraphs 3 and 4 of Annex A to Planning Policy Statement 7. The proposal therefore represents an unwarranted and unacceptable intrusion of residential development in an unsustainable location in the countryside to the detriment of the character and appearance of the landscape and visual amenity. The proposal is therefore contrary to policies BE1, RES12 and NE5 of the adopted Hinckley & Bosworth Local Plan and to Central Government Guidance in Planning Policy Statement 1 'Delivering Sustainable Development',

ITEM 12

10/00827/FUL

Mr Gary Hawkins

Consultations:-

The applicant's father has provided additional supporting information which states that the property has been purchased to provide a home for the applicant's family. One child has acute leukaemia and the delay in resolving the application has caused considerable strain on the family. The information includes a petition of local residents in support of the application which contains 15 names. The reason for the change in the design was a discrepancy with the original plans and the setting out from the working drawings.

Groby Parish Council strongly object to the application on the following grounds:-

- a) that the applicant has deliberately deviated from the approved scheme
- b) that the accommodation to be provided at first floor fails to meet the guidelines for 'habitable' accommodation
- c) the application should be considered as a stand alone application
- d) that the proposals are not in accordance with national policy (PPS1 and PPS3) or the draft Site Allocations and Generic Development Control Policies DPD
- e) that the proposal will have a significant effect on the resident at 18 Hilary Crescent and other neighbours
- f) poor design
- g) out of scale and will affect the character and appearance of the area.

A further letter of objection has been received from Groby Parish Council, forwarded by Councillor Bray. The letter raises points raised above and the following issues:-

- a) that approving the application would effectively reward the developer
- b) that the parish council had advised that the original plans provided insufficient headroom within the dormers
- c) the applicant dealt with Building Regulations by a Building Notice without the need for detailed plans
- d) planning officers failed to fully advise members on the letter and spirit of national and local planning policies and guidelines
- e) the two front dormers are double the original size and the rear dormer is increased by 600mm.
- f) the letter asks if members would have approved the previous scheme had they been aware that the new scheme is actually what was intended.

One letter received commenting that there is another property in the immediate vicinity that has been extended in a similar manner.

A further letter has been received from Stephen Dorrell MP stating that he had been approached by the neighbours regarding the appropriateness of the development, and the developer who had stated that he believed that any infringements are of a relatively minor and technical nature. In view of the local interest, he has requested that he receive a summary of the Council's views on this matter.

Appraisal:-

Parish Council Issues

First Letter:

- a) The applicant has submitted this application in an attempt to regularise the development.
- b) In terms of Planning and Building Control Regulations, there is no minimum size for first floor accommodation.
- c) This is a new full planning application.
- d) The applicable policy considerations are set out in the main agenda report.
- e) The impact upon neighbours is set out in the main agenda report.
- f) The design issues are set out in the main agenda report.

g) The issue of character and appearance is set out in the main agenda report.

Second Letter:

- a) This is not a material planning consideration.
- b) This is not a material planning consideration.
- c) This is not a material planning consideration.
- d) The previous application was fully considered by Members at the Committee held on 8 June 2010 which was preceded by a members site visit. The report contained the relevant policy and guidance considerations.
- e) Size of dormers - This proposal provides dormer of 2.2 metres in width. The previously approved dormers were 1.6 metres and 1.5 metres wide. The rear dormer is 600mm wider than the previous approved scheme.
- f) This matter is for Members of Planning Committee to consider.

Other Issues

A recent site visit has revealed that the garage to the rear of the property has been removed. It is therefore suggested that condition 3 be amended to ensure that three parking spaces are provided within the site prior to the development first being used, in line with current parking standards.

Recommendation:-

Amend condition 3 to require three off-road parking spaces prior to first use of the development.

**PUBLIC SPEAKING ITINERARY
PLANNING COMMITTEE 30 NOVEMBER 2010**

Item	Application	Speaker(s)	Supporter /objector
02	10/00590/FUL	Julie Barber	Agent
10	10/00793/FUL	Richard Moon	Objector
12	10/00827/FUL	Mr Armson Mr Hawkins	Objector OBO applicant