

# UPDATE SHEET

## PLANNING COMMITTEE – 6 October 2015

To be read in conjunction with the  
Head of Planning and Regeneration's Report (and Agenda)

This list sets out: -

- (a) Additional information received after the preparation of the main reports;
- (b) Amendments to Conditions;
- (c) Changes to Recommendations

### MAIN REPORT

<b>A2</b>	<b>15/00698/VCIM</b>	<b>Variation of conditions 3 and 22 of 15/00019/VCIM to include additional boundary treatments to plots 176 and 177 as well as landscaping revisions at land to the rear of Parkdale, Ashby Road, Ibstock.</b>
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### Further Information

The applicant has submitted a conveyance layout to show the land which is within their ownership which would exclude the land which now lies between the erected boundary fence for the new properties and the existing boundary treatments for properties on Parkdale.

### Officer comment

The Council does not hold any records on land ownership and as such should the application be approved an area of 'no mans land' would exist between the existing boundary fence to the new properties and the existing boundary treatments to the properties on Parkdale. Given that the Council does not hold any records on land ownership we would

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not be in a position to clarify who would be responsible for the ongoing maintenance of this land although as identified in the report presented to Members of the Committee should the land become untidy it would be the responsibility of the land owner to tidy up such land should it ever be investigated under Section 215 of the Town and Country Planning Act 1990 (as amended). Should this situation ever arise then it would be common practice for a land registry search to be carried out to establish the actual owner of the land.

This issue would not result in any change to the recommendation given that it would not be material to the consideration of the application in the circumstances that any issues associated with the land becoming untidy would be investigated accordingly under the aforementioned legislation.

**RECOMMENDATION: PERMIT AS RECOMMENDED (SUBJECT TO CONDITIONS AS SET OUT IN THE MAIN REPORT).**

**A3            15/00701/VCIM            Variation of conditions 3 and 22 of 15/00018/VCIM to introduce additional boundary treatments to plots 185,186,187,188,189 and 191 as well as landscaping revisions at land to the rear of Parkdale, Ashby Road, Ibstock.**

#### **Further Information**

The applicant has submitted a conveyance layout to show the land which is within their ownership which would exclude the land which now lies between the erected boundary fence for the new properties and the existing boundary treatments for properties on Parkdale.

#### **Officer comment**

The Council does not hold any records on land ownership and as such should the application be approved an area of 'no mans land' would exist between the existing boundary fence to the new properties and the existing boundary treatments to the properties on Parkdale. Given that the Council does not hold any records on land ownership we would not be in a position to clarify who would be responsible for the ongoing maintenance of this land although as identified in the report presented to Members of the Committee should the land become untidy it would be the responsibility of the land owner to tidy up such land should it ever be investigated under Section 215 of the Town and Country Planning Act 1990 (as amended). Should this situation ever arise then it would be common practice for a land registry search to be carried out to establish the actual owner of the land.

This issue would not result in any change to the recommendation given that it would not be material to the consideration of the application in the circumstances that any issues associated with the land becoming untidy would be investigated accordingly under the aforementioned legislation.

**RECOMMENDATION: PERMIT AS RECOMMENDED (SUBJECT TO CONDITIONS AS SET OUT IN THE MAIN REPORT).**

**A4            15/00652/FUL            Erection of a detached two storey dwelling with integral garage along with conversion of existing detached garage to residential dwelling with associated off-street parking 23 High Street, Castle Donington, DE74 2PP**

**Representation**

A further representation has been received in respect of the application and the Committee report. The comments received can be summarised as follows:

- The report has not addressed the heritage asset position correctly and, based on recent court case outcomes, there should be a starting point of a presumption to refuse unless material public benefits indicate otherwise;
- The tree report is insufficient and trees will grow and become closer to the proposed dwelling which will result in future pressure to remove the trees in the Conservation Area;
- There are issues with overlooking; and,
- Based on the above points there are no ‘compelling reasons’ for granting this proposal.

**Officer comment**

***Heritage***

The comments are noted and it is agreed that one sentence in particular within the Historic Environment and Streetscape section (pp 92-93) offers a choice of wording which, whilst typical phrasing in planning and development reports when referring to design, residential amenity, highways and other matters, could be misconstrued in terms of heritage assets and heritage asset policy implications.

The report makes reference to there being ‘no significant adverse impact on the heritage assets’, meaning that there is no adverse impact on heritage assets. The use of the word ‘significant’ could be misconstrued in that the issue of significance is a fundamental part of considering impact on heritage assets.

To clarify the situation in respect of any impact of the proposal on heritage assets, it is considered that the proposed garage conversion scheme and new dwelling would have no adverse impact on heritage assets.

In forming this view the heritage assets likely to be affected were identified, their setting assessed, the proposals assessed and the potential impact considered. Substantial weight

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was given to the importance of protecting the heritage assets but it was deemed there would be no harm. This also took into account sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the NPPF and Historic England guidance.

The representation which has been received refers to court cases, in particular the Barnwell case. The Barnwell case was found not to have given considerable importance and weight to the desirability of preserving the setting of listed buildings. The case emphasised that considerable weight must be applied to the preservation of the setting of listed buildings and conservation areas in planning decisions. Decision makers must consciously acknowledge any harm arising, specifically attach considerable weight to this and **only then** assess whether there are circumstances that outweigh the harm identified that allow permission to be granted. This means where there is any harm (including less than substantial) the default position is to refuse. The onus is on the applicant to demonstrate the material considerations that may justify the harm.

In respect of the current application, the Conservation Officer has raised no objection to the proposal on heritage grounds. As set out above, all aspects of setting and significance have been considered as part of the application and the conclusion is that the proposal would have no adverse impact and, therefore no harm. On that basis there is no further need to consider any other circumstances in relation to harm, i.e. public benefit. The approach to assessing the impact on the heritage assets has taken into account Government Guidance and also complies with the Barnwell case.

### ***Trees and levels***

As part of the consideration of the application the Tree Officer has assessed the submitted Arboricultural Survey Report and Method Statement and raised no objections to the application subject to the imposition of conditions relating to the submission of a site specific tree protection plan (Condition 16 pp 99) and the provision of appropriate replacement planting for a Copper Beech tree (currently in poor condition with basal/root decay and fungal colonization) (Condition 7 pp 97).

During the course of the application a site section drawing has been submitted which shows that there would be no alterations to the existing site levels in order to provide the new dwelling. The dwelling itself is also positioned outside the root protection area of the trees on the site so if any works were necessary to the ground levels where the dwelling would be positioned the integrity of the trees would not be impacted on. In any event a condition has been proposed which would lead to any alterations to the ground levels being agreed with the District Council so that due consideration can be given to the integrity of the trees should any works be proposed within the root protection areas (Condition 15 pp 99).

In the circumstances that the position of the dwelling would not impact significantly on the integrity of the trees it is considered that there would be no undue pressures for the trees to be removed to construct the dwelling.

### ***Residential amenity***

In respect of the future amenities of the occupants of the dwellings, with regards to the relationship with existing vegetation, it is considered that the residential amenity section of the report has satisfactorily addressed this issue by identifying that although it is inevitable that some overshadowing impacts would occur the dwellings and the majority of their private amenity areas would not be significantly impacted on to an extent that a refusal of the

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application could be justified. This is particularly true in the context of the fact that the Tree Officer has not raised an objection to the application on this basis as well as that BS5837 (2012) (Trees in Relation to Design, Demolition and Construction - Recommendations) indicates that the presence of large species trees is being seen as advantageous due to, amongst other things, the shading mitigating glare and excessive solar heating. As the trees are within the conservation area they would also be afforded a degree of protection in ensuring that they would be retained.

Issues relating to overlooking from a first floor window in the northern (rear) elevation of the new dwelling have also been mitigated by the re-organisation of the private amenity space which would be retained for No. 23 High Street and the new dwelling so as to prevent a direct overlooking impact with additional landscaping also being provided in close proximity to what would become the shared boundary between the dwellings.

It was therefore concluded that there would not be conflict with Policy E3 of the Local Plan with it also being noted that the existing occupant of No. 23 (the applicant) and future occupants of the dwellings would be aware of the relationship with retained trees, as well as between the properties, prior to their purchase.

As such, there are no outstanding issues in respect of heritage assets, trees and level or residential amenity and the recommendation remains as per that set out in the main report.

**RECOMMENDATION: PERMIT AS RECOMMENDED (SUBJECT TO CONDITIONS AS SET OUT IN THE MAIN REPORT)**

**A5            15/00497/FUL            Conversion and redevelopment of barns to form four offices and two storage buildings with an existing access**

**Measham Lodge Farm, Gallows Lane, Measham**

**A6            15/00587/LBC            Conversion and re-development of barns to form four offices (listed building consent)**

**Measham Lodge Farm, Gallows Lane, Measham**

**This Update Sheet relates to both of the above items.**

**Letters of Representation:**

**The agent** has submitted a revised site layout plan to address the concerns of the County Footpaths Officer in respect of impact on the route of public right of way P90.

**The County Footpaths Officer** advises that there is no objection to this revised plan as a four metre wide grass verge would be provided adjacent to the access road which would provide a safe area for users of the public footpath should they need to leave the driveway due to vehicles approaching.

**NWLDC Footpaths Officer** has no objection to the proposal but submits that a corner of a barn may be built over the definitive route of the footpath P90.

**Officer Comment:**

The comments of the NWLDC Footpaths Officer relate to an issue which has been addressed in the main report and is a separate issue to the current planning application and listed building consent submissions.

The amended site layout plan addresses the County Footpath Officer's concerns and therefore the wording of condition 2 (approved plans) and condition 14 (public footpath mitigation) on 15/00497/FUL needs to be amended. The approved plans condition on 15/00587/LBC does not need to be amended as matters relating to impact on the footpath do not fall within the remit of a listed building consent application.

**RECOMMENDATION: NO CHANGE TO RECOMMENDATION ON BOTH APPLICATION REF NOS. 15/00497/FUL and 15/00587/LBC with amendments to conditions 2 and 14 on 15/00497/FUL**

2. The development shall be carried out strictly in accordance with the following schedule of plans, unless otherwise required by a condition of this permission:

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- Location Plan (1:5000) received by the Local Planning Authority on 1 July 2015;
- Drawing No. MLF-BLK-021. Rev J (Site - Block - Roof Plan) received by the Local Planning Authority on 23 September 2015;
- Drawing No. MLF.EXP.001 (Barn 4 - Existing Plans/Section) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.EXE.002 (Barn 4 - Existing Elevations) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.PRP.013 Rev B (Barn 4 Proposed Plan) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.PRP.014 Rev B (Barn 4 Proposed Elevations) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.EXP.003 (Barn 6 - Existing Plans/Sections) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.EXE.004 (Barn 6 - Existing Elevations) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.PRP.015 Rev A (Barn 6 Proposed Plan) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.PRP.016 Rev A (Barn 6 Proposed Elevations) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.EXP.005 (Barn 7 - Existing Plan, Elevations and Section) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.PRP.017 Rev A (Barn 7 Proposed Plans and Elevations) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.EXP.009 (Barn 9 - Existing Plan) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.EXE.010 Rev A (Barn 9 - Existing Elevations) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.PRE.022 (Barn 9 - Proposed Elevations) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.PRP.23 (Barn 9 - Proposed Plan) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.EXP.011 (Barn 10 - Existing Plan) received by the Local Planning Authority on 12 June 2015;

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- Drawing No. MLF.EXE.012 Rev A (Barn 10 - Existing Elevations) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.PRE.024 (Barn 10 - Proposed Elevations) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.PRP.25 (Barn 10 - Proposed Plan) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.EXP.006 (Barn 11 - Existing Plans) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.PRP.019 (Barn 11 Proposed Plan) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.PRP.020 Rev A (Barn 11 Proposed Elevations) received by the Local Planning Authority on 12 June 2015;
- Drawing No. MLF.DRA.026 (Indicative Drainage Strategy) received by the Local Planning Authority on 12 June 2015;
- Drawing No. DSO468P Issue 3 (BD/BE Biodisc General Dimensions Customer Drg) received by the Local Planning Authority on 12 June 2015.

*Reason - For the avoidance of doubt and in the interests of proper planning.*

14. The amendments to the access driveway including the widening of the access drive, the four metre grass verges either side of the access way and the repositioned field boundary fence shall be provided in full in accordance with Drawing No. MLF-BLK-021. Rev F (Site - Block - Roof Plan) before the bringing into use of any part of the development hereby approved and shall thereafter be so retained.

*Reason: to protect the enjoyment and safety of users of the public right of way.*

**A7            15/00783/FUL            Proposed erection of a pig shed at land at Junction of Breedon Lane and Rempstone Road, Osgathorpe.**

**Further Information**

An updated block/site plan has been submitted in support of the application to show the proposed pig shed in relation to the existing buildings on the site with the correspondence

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indicating that the additional shed is required in order to separate the male and female piglets from each other to avoid any interbreeding.

**Officer comment**

It is considered that the proposed need for the building has already been recognised in the report which has been prepared and presented to the Planning Committee. It is, however, recognised that the additional information supplied would further justify a need for the development in accordance with Policy S3 of the Local Plan.

Condition 2 of the planning consent will be amended to reflect that the development should be carried out in accordance with the details on the revised block/site plan.

**RECOMMENDATION: PERMIT AS RECOMMENDED (SUBJECT TO CONDITIONS AS SET OUT IN THE MAIN REPORT) FOLLOWING A REVISION TO CONDITION TWO OF THE PLANNING PERMISSION WHICH WILL NOW READ AS FOLLOWS:-**

The development shall be carried out in strict accordance with the Site Location Plan - Plan A (1:1250) and 'Erection of Pig Shed' Plan - Plan C (1:100), received by the Local Authority on the 10th August 2015, as well as the Site/Block Plan (1:500) – Plan B, received by the Local Authority on the 2<sup>nd</sup> October 2015, unless otherwise required by another condition of this permission.

*Reason - for the avoidance of doubt and to determine the scope of the permission.*

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