
Change of use to community play area and beer garden,
extension to existing car park, buffer zone, provision of post
and rail fencing and hedging and installation of external
lighting

Report Item No
A9

Halfway House 65 Church Street Donisthorpe Swadlincote

Application Reference
14/00102/FUL

Applicant:
Mr Peter Riley

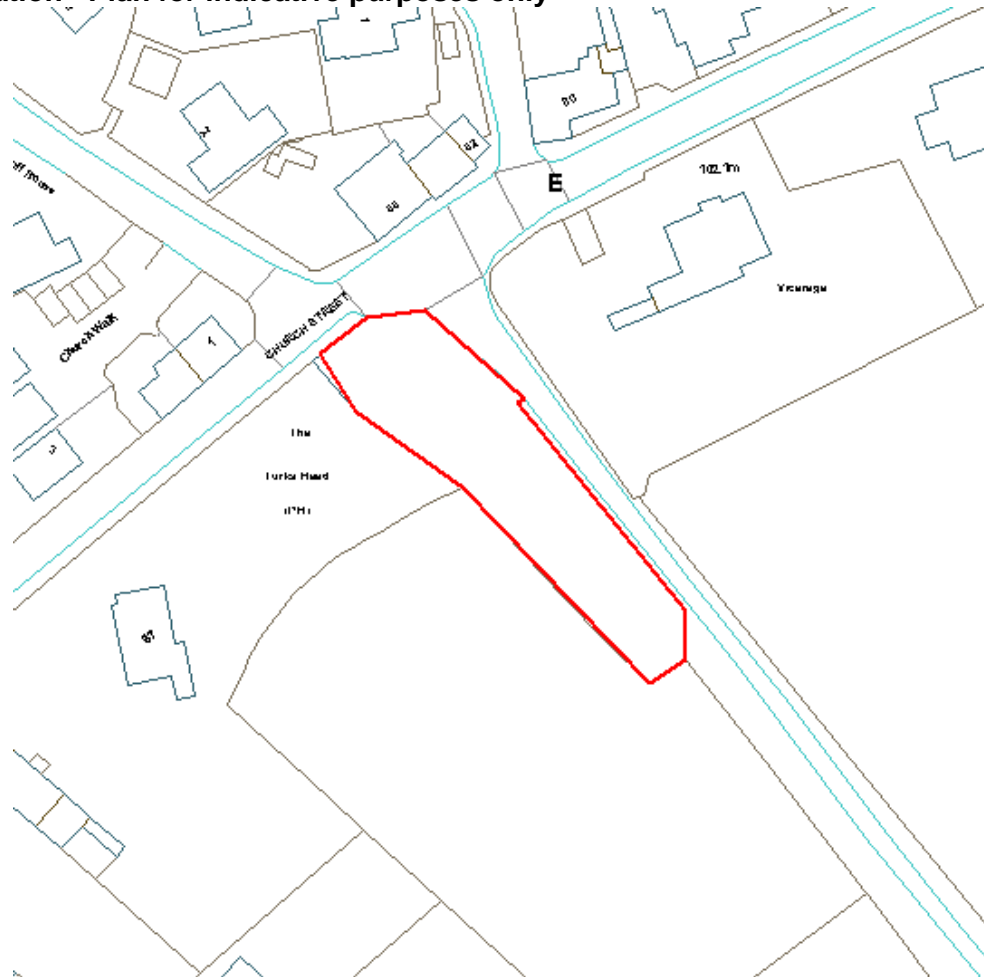
Date Registered
27 January 2014

Case Officer:
Joe Mitson

Target Decision Date
24 March 2014

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



Reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office ©copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence LA 100019329

Executive Summary of Proposals and Recommendation

Proposal

The application seeks permission for a change of use of land to a community play area and beer garden, extension to the existing car park and external lighting.

Consultations

Members will see from the main report below that an objection has been received in respect of the proposals from the occupier of a neighbouring property; no other objections are raised by the statutory consultees.

Planning Policy

The site is adjacent to the Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also material to the determination of the application however is the provision of community facilities and the rural economy.

Conclusion

The proposal is considered to be acceptable in terms of land use supporting an existing rural community facility and would lead to the expansion of the beer garden and the provision of a children's play area. The proposal would be well related to the existing building and site and with a suitable landscaping scheme would be well integrated into the edge of the settlement. Revisions to the scheme has reduced the potential impact on the residential amenities of occupiers of neighbouring properties and the relationship is now considered to be acceptable between existing and proposed land uses. No objection is raised in terms of highway safety or on the River Mease SAC/SSSi.

Recommendation:-

PERMIT SUBJECT TO THE IMPOSITION OF CONDITIONS.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

The application comprises the change of use of agricultural land to a community play area and beer garden, extension to existing car park and external lighting. The play equipment would comprise four pieces - a climbing frame, 'Spider monkey' playframe, 'Pony seesaw' and 'Spring motorbike'.

The application has been amended through the reduction of the area to be used for the proposal with a ten metre buffer now to be provided along the north-west and south-west boundaries. In addition the proposed walls and railings have been omitted to be replaced by timber post and railing fencing and hedging.

The application site is within the ownership of the Halfway Public House to the north-east. The Halfway House would operate the facility, stating within the Design and Access statement that there are no existing play facilities within the village. To the north-west is a residential property, 67 Church Street, with 'The Grange' further to the north-west. The garden of 67 bounds the site to the north and west. To the south are open fields, with an outbuilding to the south west. To the east is the existing car park to the pub.

Planning history comprises 07/00420/FUL which approved the erection of single storey extension to public house. 12/00707/OUT granted permission for the erection of a dwelling to the south of the pub.

2. Publicity

8 neighbours have been notified (Date of last notification 5 February 2014)

Site Notice displayed 5 February 2014

Press Notice published 12 February 2014

3. Consultations

Oakthorpe & Donisthorpe Parish Council consulted 5 February 2014
County Highway Authority consulted 5 February 2014
Head of Environmental Protection consulted 5 February 2014
Natural England consulted 5 February 2014
NWLDC Tree Officer consulted 5 February 2014
LCC ecology consulted 5 February 2014
NWLDC Conservation Officer consulted 5 February 2014

4. Summary of Representations Received

Oakthorpe and Donisthorpe Parish Council: no comments received.

Highway Authority: no objections subject to conditions.

Environmental Protection: concerns over the noise impact on the neighbouring property associated with the use of the play area and beer garden, the applicant should install a suitable acoustic barrier to prevent noise disturbance through a condition.

Natural England: no comments received.

Tree Officer: no comments received.

LCC Ecology: no comments received.

Third Party Representations

One letter received from an occupier of a neighbouring property objecting on the grounds that the paddock has a covenant on it precluding the consumption of alcohol, would be directly affected by the scale, noise, smell, oppressiveness and proximity as the development would be a few metres from the main living rooms and bedroom of the new dwelling approved at the outline stage, there have been noise issues from the pub from events held outside on the car park, the proposal is too large for the pub which only has seating inside for a limited number of people, the proposed layout is poor with the beer garden too far away from the pub and not visible from the main building, the playground is too far away from parental/pub supervision and children cannot access the community facility without going through the pub grounds/car park, impact on ecology, large sections of hedgerow would be removed and the paddock is a haven for wildlife, impact on archaeology. Have no objection in principle to community facilities; however the above concerns need to be addressed.

Following receipt of the revised plans the neighbour comments as follows: note the applicant's have addressed some of the issues in that the proposed wall is to be replaced by a post and rail fence with hedging but the amendments do not remotely deal with the issue of noise and disturbance or the potential visual impact of an acoustic fence. The area of land subject to the application is very close to the existing residential boundaries and to the proposed dwelling, these gardens are short in length and the principle ground floor room windows face the application site, in addition to first floor bedroom windows. The inclusion of the buffer zone will have no impact in reducing noise though it may provide a visual screen. The beer garden remains disproportionately large for this small village pub and the use will almost certainly cause noise and disturbance to nearby residents particularly at unsocial hours when background noise levels are at their lowest. The inclusion of an acoustic barrier is an interesting attempt to overcome the problem but in the absence of any detail this is meaningless. The objections are that regular events have taken place in the paddock over the last few years which have caused noise and disturbance, general rowdiness and bad language which have prevented the family using their garden, events have also taken place on the car park with a similar outcome, in summer windows cannot be kept open which is unreasonable, the introduction of an unlimited amount of people and consequent activity into a large beer garden will only exacerbate the above problems particularly in evenings and at night, there is no guarantee a barrier would work, although the play area is welcomed the location within a beer garden is not suitable. The proposal would undermine the attractiveness of the open approach to the village and the acoustic barrier would be prominent and incongruous.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent or where relevant policies are out of date 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 (Para 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

The sections of the NPPF that are relevant to this application are:

- 4 - Promoting Sustainable Transport through reducing greenhouse gas emissions, achieving sustainable modes of transport, providing safe and suitable access for all and improving the transport network;
- 7 - Requiring Good Design through seeking high quality and inclusive design for all, effectively connecting people and places and refusing poor design;
- 11 - Conserving and Enhancing the Natural Environment by protecting and enhancing landscapes, minimising the impact on biodiversity and recognising the benefits of ecosystem services.

Save where stated otherwise, the policies of the North West Leicestershire Local Plan as set out in more detail below in the relevant section are consistent with the policies in the NPPF and except where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

North West Leicestershire Local Plan:

Policy S3 sets out the circumstances in which development will be permitted beyond Limits to Development.

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings.

Policy E4 seeks to achieve good design in new development.

Policy T3 requires the adequate provision of access and circulation.

Policy T8 relates to parking provision.

Policy L2 states where it can be demonstrated that a rural location is necessary permission can be granted for informal recreational facilities on the fringes of built up areas and elsewhere outside the Limits to Development.

Other Policies

Submission Version Core Strategy

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

6. Assessment

Principle of Development

The proposal comprises the change of use of a field adjacent to the Limits to Development to a community play area, beer garden, extension to pub car park and the installation of external lighting. The application specifically proposes the removal of the hedgerow along the eastern boundary to facilitate the extension to the car park. The field would be levelled and re-grassed

with a post and rail fence along the southern boundary with a hawthorn hedge. The beer garden/play area would comprise the play equipment towards the southern boundary with seating and gazebos dotted around the remaining area. The play area would be available for use by local children throughout the day to provide a community facility to the village and would be sectioned off by a 1 metre timber fence. A ten metre buffer, to be free from use and development connected to the proposal, would be implemented along the north-western and south-western boundaries of the site.

In support of the application the Agent advises the field has been frequently used for functions and events relating to the public house and community events including the siting of a marquee, the use of the land for a longer period throughout the year as a beer garden would allow the community and public house to utilise the use of the land when the weather permits and enable the play area to be used all year round, the scheme would aid the long term viability of the pub, the village does not have a play area and the equipment would be available for use outside the hours of the pub but would be closed at 9pm. The application also includes the submission of 8 letters of support and a petition in support of the proposal signed by 109 people.

The site is beyond the Limits to Development but adjacent to the settlement boundary. Policy S3 seeks to restrict development in such locations; however recreation and community facilities can be supported in principle at such locations. Furthermore, policy L2 allows informal recreation facilities provided a rural location can be demonstrated as being necessary on the fringes of built up areas. As such the proposed land use, comprising play area, parking for the pub and associated facilities and the beer garden would provide community and recreational facilities for the community and the proposal can be supported in land use terms.

Design, Visual Impact and Heritage Issues

The proposal would extend the car park into the field and provide a children's play area and beer garden. The car park extension would be similar in appearance to the existing and with landscaping would not have a significant visual impact on the site or surroundings. The existing car park is relatively small and a larger parking area would be visually acceptable.

The play area would occupy a floor area of 19 metres by 16 metres which represents a relatively limited proportion of the overall field. The siting would be well related to the pub and car park and would be read as part of the overall facilities. Landscaping would reduce the visual impact and aid the assimilation into this rural edge site.

The beer garden would be sited adjacent to the play area and expanded car park and would comprise tables and seating on a grassed area. The site would be limited by the ten metre buffer areas along two boundaries and no objection is raised visually. The buffer area would include landscaping and an acoustic fence to produce a wildlife corridor.

The walls and railings originally proposed have been omitted from the scheme to be replaced with post and rail fencing and hedging. The specific details of these can be controlled by condition. Lighting is also proposed although this been amended as a result of the omission of the walls and railings. A condition to cover the detail and impact of the lighting can be imposed.

The site is in close proximity to listed buildings including the Vicarage and Church of St John and The Grange. However, none are immediately adjacent to the proposals and the setting of these buildings would not be harmed by the proposed development.

Residential Amenity

Although the site borders countryside to the south and south-east there are dwellings in the

vicinity including 67 Church Street, The Grange and The Vicarage. In addition, a dwelling has been approved in outline adjacent to The Grange. The proposal would take the pub facilities closer to the dwellings to the west and following discussions with Officer's a buffer zone of ten metres has been agreed along the northern and western boundaries. This area will include an acoustic fence, details of which can be controlled via a condition, and landscaping.

No objection was been raised by Environmental Protection to the original provided the acoustic barrier is installed. Since that consultation the application has been amended to incorporate the buffer which would further reduce the impact on neighbouring properties. Notwithstanding the objections received it is considered that although the proposals are likely to generate a greater level of noise and disturbance the revised plans together with the mitigation measures of landscaping and acoustic fence, would safeguard the residential amenities of occupiers of neighbouring properties.

Highway Safety

The proposal includes the expansion of the car park and the Highway Authority raise no objection subject to conditions relating to visibility splays and the surfacing and provision of the parking area.

Ecology

A report has been submitted as part of the application noting the proposal does not include the provision of toilet facilities, that the surface water run-off would be mitigated by constructing the extension of the car parking by utilising porous asphalt to prevent excess surface water run-off. The play area would be constructed with a green grasslock sunk into the ground to ensure the grass is hardwearing and rainwater would continue to soak through the ground to prevent any additional run-off. There would be no change to the existing grass.

It is therefore concluded the proposal would not have a negative impact on the River Mease.

An Ecological Assessment Report was submitted which concluded the proposed development would have no adverse effect on any protected species on site or in the immediate and wider local area. As such no mitigation measures are required.

RECOMMENDATION - PERMIT, subject to the following conditions:

- 1 The development shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development shall be built strictly in accordance with the approved plans as follows:

R135 01 (car park extension and play area only)

A4 Land adjacent to The Grange, Church Street, Donisthorpe 1:2500 depicting the ten metre buffer zone and identifying the scope of the beer garden.

This permission does not convey approval for use of the buffer zone as part of the beer garden or play area or for the railings and walls.

Reason: To determine the scope of this permission

- 3 Before development commences on the site a landscaping scheme shall first be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented in the first planting and seeding season following either the first occupation or the bringing into use of the development hereby approved unless an alternative implementation programme is first agreed in writing with the Local Planning Authority. The scheme shall have particular regard to the treatment of the site boundaries.

Reason- to ensure satisfactory landscaping is provided within a reasonable period.

- 4 Any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter and during a period of 5 years from the first implementation of the approved landscaping scheme or relevant phase of the scheme, unless a variation to the landscaping scheme is agreed in writing with the Local Planning Authority.

Reason- to provide a reasonable period for the replacement of any trees.

- 5 Before the commencement of development details of an acoustic barrier to prevent noise disturbance shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the location of the barrier, details of the noise mitigation measures and the design and appearance of the barrier. The approved barrier shall be installed prior to the first use of the beer garden or play area and shall thereafter remain as approved.

Reason: In the interests of residential amenity

- 6 Before the commencement of development, and notwithstanding the details submitted, details of external illumination shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with these approved details which shall also include methods of shielding to ensure the illumination does not adversely impact on highway safety or residential amenity.

Reason: In the interests of residential amenity and highway safety

- 7 Before development commences on the site a boundary treatment scheme shall first be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the location, materials, design and dimensions of the boundary treatment and it is expected post and rail fencing together with native hedging shall feature. The approved scheme shall be implemented prior to the first use of the beer garden and play area hereby approved and shall thereafter be so maintained.

Reason- to ensure satisfactory landscaping is provided within a reasonable period.

- 8 Off-street car parking and turning facilities shall be provided within the application site in accordance with the details shown on the submitted plan; the parking and turning areas shall be surfaced and marked out prior to the development being brought into use, and shall thereafter be so maintained at all times.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to

enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.

- 9 Before first use of the development hereby permitted, visibility splays of 2.4 metres by 17 metres to the right hand side shall be provided at the junction of the access with Hall Lane; the visibility splay shall be so maintained in perpetuity and nothing within it shall be allowed to grow above a height of 0.9 metres above ground level.

Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.

- 10 The use of the beer garden shall not take place outside the following hours: 0900 to 2300 Monday to Saturday and 0900 to 2230 Sundays and Bank Holidays.

Reason: In the interests of residential amenity

Notes to applicant

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was necessary in this instance to agree an acceptable scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).