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Erection of part two storey, part single storey side and rear extensions to farm workers dwelling

Report Item No  
A4

The Orchard Nottingham Road Ashby De La Zouch  
Leicestershire

Application Reference  
14/00980/FUL

Applicant:  
Mr Mark Hewitt

Date Registered  
31 October 2014

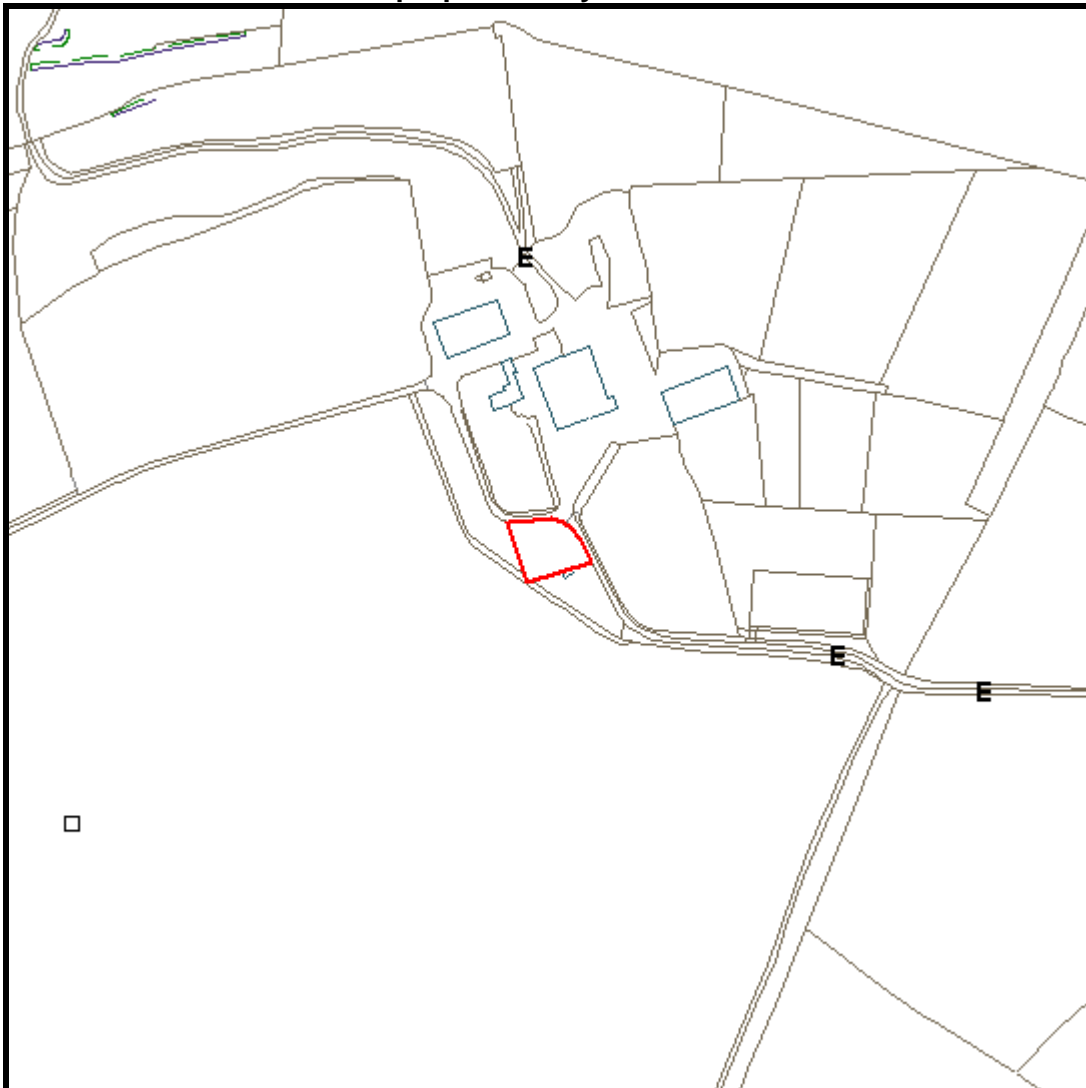
Case Officer:  
Jenny Davies

Target Decision Date  
26 December 2014

Recommendation:  
PERMIT

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**Site Location - Plan for indicative purposes only**



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## **Executive Summary of Proposals and Recommendation**

### **Proposal**

Planning permission is sought for the erection of a part two storey, part single storey side and rear extension to a farm worker's dwelling at The Orchard, Nottingham Road, Ashby de la Zouch. The dwelling is located some 580 metres to the east of the A511 Ashby Bypass. The extension would project 5.5 metres from the dwelling's northern elevation and then extend back 12.1 metres at ground floor, with its first floor element being 9.1 metres in depth.

### **Consultations**

Members will see from the main report below that no letters of objection from members of the public have been received. Any comments from Ashby de la Zouch Town Council will be reported on the update sheet.

### **Planning Policy**

The application site lies outside the Limits to Development as defined in the adopted North West Leicestershire Local Plan. Also of relevance is the National Planning Policy Framework (NPPF).

### **Conclusion**

On balance a reason for refusal on the basis that the dwelling would become of a scale that would not be commensurate with the agricultural operation of the holding could not be justified in this instance. The less than substantial harm to a heritage asset is considered on balance to be outweighed by the provision of an extended dwelling to serve an existing farm holding. The extension would not be out of keeping with the character of the existing dwelling and would not be overly prominent within the wider countryside. The development would not have any adverse impacts in relation to residential amenities and the nearby public right of way. It can be ascertained that the proposal site would not, either alone or in combination with other plans or projects, have a significant effect on the internationally important interest features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.

## **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 falls to be determined by the Planning Committee as the agent for the application is Andrew Large who is the husband of Councillor Caroline Large.

Planning permission is sought for the erection of a part two storey, part single storey side and rear extension to a farm worker's dwelling at The Orchard, Nottingham Road, Ashby de la Zouch. The dwelling is located some 580 metres to the east of the A511 Ashby Bypass and is accessed via a private drive running off the bypass.

The main part of the dwelling is two storeys in height with a small single storey side projection and contains a living room, dining room/kitchen, utility room, toilet and hallway at ground floor and three bedrooms, a bathroom, ensuite and landing at first floor.

The extension would project 5.5 metres from the dwelling's northern elevation and then extend back 12.1 metres at ground floor, with its first floor element being 9.1 metres in depth. The extension would result in the reconfiguration of the dwelling to provide a living room, TV/play room, kitchen/dining room, pantry, utility room, boot room, toilet, farm office and hallway at ground floor with four bedrooms, a bathroom, two ensuites, landing and linen cupboard at first floor.

The dwelling currently has a gross floor space of 120 square metres and an internal floor area of 100 square metres and the extension would increase these to 231.8 square metres and 194.7 square metres respectively.

Western Old Parks Farmhouse which lies 90 metres to the north is a Grade 2 listed building. Public footpath O88 runs along the access drive.

Outline planning permission was granted for a dwelling on the site (00/0432) which was subject to conditions limiting occupation of the dwelling to those employed in agriculture, imposing a similar condition on Western Old Parks Farmhouse and limiting its gross floorspace to a maximum of 95 square metres. An application to remove conditions 4 and 5 on this outline permission (01/00111/VCU) was refused in January 2003 and subsequently allowed in part on appeal with a maximum gross floorspace of 120 square metres.

### 2. Publicity

One Neighbours have been notified (Date of last notification 14 November 2014)

Site Notice displayed 20 November 2014

Press Notice published 26 November 2014

### 3. Consultations

Ashby De La Zouch Town Council consulted  
NWLDC Conservation Office

### 4. Summary of Representations Received

### **Statutory Consultees**

The **Conservation Officer** has no objection.

**Ashby de la Zouch Town Council** supports the application.

### **Third Party Representations**

No letters of representation have been received.

All responses from statutory consultees and third parties are available for Members to view on the planning file.

## **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 (paragraph 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.

Paragraph 17 sets out the 12 key principles that should underpin plan-making and decision-taking, which include:

- proactively drive and support sustainable economic development to deliver 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;
- take account of the different roles and character of different areas, including recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- conserve heritage assets in a manner appropriate to their significance;
- take account of and support local strategies to improve health, social and cultural wellbeing.

The following sections of the NPPF are considered relevant to the determination of this application:

"Paragraph 14 sets out the presumption in favour of sustainable development and, in respect of decision making, provides that, unless material considerations indicate otherwise, states that this means:

- 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."

"55. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside."

"57. It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area

development schemes."

"61. Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."

"100. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere."

"131. In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness."

"132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting...."

"133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss or all of four other criteria apply."

"134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use."

**North West Leicestershire Local Plan:**

The North West Leicestershire Local Plan forms the development plan and the following policies of the Local Plan are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application:

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan.

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

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees.

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 E7 seeks to provide appropriate landscaping in association with new development.

Policy T3 requires development to make adequate provision for vehicular access and circulation and servicing arrangements.

### **Other Guidance**

#### *Submission Core Strategy*

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

*Planning Practice Guidance - March 2014* supplements the policies in the NPPF. The Guidance does not change national planning policy but offers practical guidance as to how such policies should be applied.

### **6. Assessment**

The main issues for consideration in the determination of this application relate to the principle of the proposal, its impact on the historic environment and its design and visual impact.

#### **Principle of Development**

The original planning permission for the dwelling (00/0432) was subject to conditions limiting its occupancy *...to a person solely or mainly working, or last working, in the locality in agriculture, forestry or the breeding and keeping of horses, or a widow or widower of such a person, and to any resident dependents"* and limiting its gross floorspace to 95 square metres.

A subsequent application to vary conditions on the outline permission (01/00111/VCU) was recommended for approval by officers but was refused at Planning Committee in part on the grounds that *The variation of Condition 5 of planning permission 00/0432 to allow a dwelling of 180 sq.m as proposed would result in a dwelling that is beyond the requirements of the enterprise. The proposal is not justified and would result in a dwelling larger than is required which would further impact upon the visual amenities of this countryside location.* An appeal against this decision was in part allowed by permitting a dwelling with a gross floorspace of 120 square metres. The current proposal would increase the gross floor space from 120 square metres to 231.8 square metres, with the internal floor area increasing from 100 square metres to 194.7 square metres.

The application notes that the farm office, gun store, utility room and ground floor toilet (approximately 24 square metres gross floor space and 19 square metres of internal space) would be used by farm staff and visitors. Removing this element from the calculation of floor area would give a gross floor space of 207 square metres and an internal floor area of 168 square metres of habitable accommodation.

The guidance within Annex A to Planning Policy Statement 7 has been cancelled by the publication of the national Planning Practice Guidance, which, along with the NPPF, does not give any advice in relation to the size of agricultural dwellings. The only related advice is at paragraph 55 of the NPPF which states that *"Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as...the essential need for a rural worker to live permanently at or near their place of work in the countryside."*

It is therefore considered that the main consideration must be whether the size of the dwelling is required in relation to the needs of the agricultural unit and not the personal circumstances or preferences of the applicant.

The submitted information sets out a justification for the increase in the size of the dwelling including:

- the applicant's role at the holding has increased to him becoming a full time farm manager;
- the extent of private living space is commensurate with the accepted size for a farm manager's dwelling;
- the applicant, as would be expected with a farm manager due to age and experience, has a partner and three children;
- a recent appeal case allowed a 300 square metre dwelling on an arable farm of a similar size to the Western Old Parks farm holding;
- the main farmhouse is occupied by the applicant's father who no longer has an active interest in the farming business;
- case law has established that a retired farmer cannot be expected to vacate his family home to make way for the next generation;
- the applicant has sole responsibility for all day to day farming operations;
- in addition to the farming of the arable land associated with the holding, the applicant undertakes agricultural contract work;
- the applicants have established a livery enterprise on the site with 14 stables and a manege;
- the site requires the equivalent of 74.5% of a full time person;
- a residential presence is required on the site in relation to management of the arable cropping undertaken on the site and for security purposes;
- the purchase of a dwelling off-site would not cater for the on-site needs of the holding.

In respect of the 2001 application to increase the size of the dwelling officers recommended that a floor space of 180 square metres was acceptable and that this would not result in an unusually large dwelling. The subsequent appeal decision advised that the dwelling was seen as *... a second one for the overall holding, and as such it needs to provide little more than normal domestic accommodation.*, noted *...the family circumstances of the appellants and I appreciate that with their children they would like a sizeable family home, but this dwelling is only justified on the needs of the business and that the dwelling ...should be no bigger than is reasonably necessary to fulfil the business need.* The Inspector also considered that limited floor space was required for a secure gun cabinet and cabinets for vet supplies but as it was the second dwelling on the holding he did not see the need for an office.

Since the appeal decision in 2003 the occupier of the main farmhouse (the applicant's father) has retired and is no longer actively involved with the day to day farm operations, and so the applicant is now solely responsible for the running of the farm holding. It would be unreasonable to expect that the need for additional accommodation for the applicant and his family should be met by his father moving out of the main farmhouse, an approach which is in accordance with the findings of case law (*Keen v Secretary of State for the Environment and Aylesbury Vale District Council* ([1996] JPL) and *JR Cussons and Son v Secretary of State for Communities and Local Government* ([2008] EWHC 443)).

Based on the above it could also therefore be argued that The Orchard is the main dwelling at the holding, now that it is occupied by a full time farm manager, and as such there is now a need to provide an office, gun store, utility room and toilet at this property. Activity at the farm holding has also changed since the appeal decision, with the consolidation of the livery business to provide 14 stables and a manege and the erection of a grain store, along with additional contract work being undertaken. Farming practices have also changed in this time, including the need to store chemicals and pesticides and the implementation of more modern standards, and a greater need for security.

It is therefore considered that on balance a reason for refusal on the basis that the dwelling would become of a scale that would not be commensurate with the agricultural operation of the holding could not be justified in this instance.

### **Historic Environment**

Western Old Parks Farmhouse is a Grade 2 listed building and is located some 90 metres to the north of the property. The farmhouse dates from the 18th century or earlier and retains many of its original features and materials as well as a number of outbuildings. The listed building forms an important part of the history of the area and is considered to be a heritage asset of some significance which has value for this and future generations.

The listed building is well screened from view by young and more mature planting located adjacent to the site, along the access drive and within the farmhouse's garden area. As such the site does not form a prominent part of the foreground or backdrop to the listed building. The proposal would therefore have a limited impact on the setting of the listed building and as such would not adversely affect its setting and would result in less than substantial harm to this designated heritage asset.

Paragraph 134 of the NPPF requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal. The harm to the heritage asset is in this case considered on balance to be outweighed by the provision of an extended dwelling to serve an existing farm holding.

### **Design and Visual Impact**

It is considered that the extension would not be out of keeping with the character of the existing dwelling and would not be overly prominent within the wider countryside due to its location within the site and screening provided by existing trees and hedgerows.

### **Other Matters**

The extension would be at least 80 metres from Western Old Parks Farmhouse, which is the nearest dwelling and would therefore not result in significant detriment to the amenities of occupiers of this dwelling. The extension would not impact on the route of the public right of way which runs along the access drive. The trees close to the dwelling are unlikely to be adversely affected by the extension and although a new parking/turning area would be provided under the canopies of some of these trees, it is considered that these trees are not worthy of protection by a TPO. The site lies outside the catchment area for the River Mease Special Area of Conservation/SSSI.

### **Conclusion**

On balance a reason for refusal on the basis that the dwelling would become of a scale that would not be commensurate with the agricultural operation of the holding could not be justified in this instance. The less than substantial harm to a heritage asset is considered on balance to be outweighed by the provision of an extended dwelling to serve an existing farm holding. The extension would not be out of keeping with the character of the existing dwelling and would not be overly prominent within the wider countryside. The development would not have any adverse impacts in relation to residential amenities and the nearby public right of way. There are no other relevant material planning considerations that indicate planning permission should not be granted. It is therefore recommended that planning permission be granted.



**RECOMMENDATION, PERMIT subject to the following conditions(s):**

- 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 carried out strictly in accordance with the following schedule of plans unless otherwise required by a condition of this permission:

- Location Plan (1:2500) received by the Authority on 31 October 2014;
- Drawing No. 14.3004.01 (Topographical Survey Sheet 1 of 1) received by the Authority on 31 October 2014;
- Drawing No. 14.3004.02 (Existing Details Sheet 1 of 1) received by the Authority on 31 October 2014;
- Drawing No. 14.3004.06 (Detailed Planning Sheet 1 of 2) received by the Authority on 31 October 2014;
- Drawing No. 14.3004.07A (Detailed Planning Sheet 2 of 2) received by the Authority on 31 October 2014.

- 3 All external materials used in the development hereby permitted shall be of the same type, texture and colour as those used in the existing building, unless otherwise agreed in writing by the Local Planning Authority.

*Reason- to ensure a satisfactory standard of external appearance.*

**Notes to applicant**

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. 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).

- 2 The proposed development lies within an area which could be subject to current coal mining or hazards resulting from past coal mining. Such hazards may currently exist, be caused as a result of the proposed development, or occur at some time in the future. These hazards include:

- Collapse of shallow coal mine workings.
- Collapse of, or risk of entry into, mine entries (shafts and adits).
- Gas emissions from coal mines including methane and carbon dioxide.
- Spontaneous combustion or ignition of coal which may lead to underground heatings and production of carbon monoxide.
- Transmission of gases into adjacent properties from underground sources through ground fractures.

- Coal mining subsidence.
- Water emissions from coal mine workings.

Applicants must take account of these hazards which could affect stability, health & safety, or cause adverse environmental impacts during the carrying out their proposals and must seek specialist advice where required. Additional hazards or stability issues may arise from development on or adjacent to restored opencast sites or quarries and former colliery spoil tips.

Potential hazards or impacts may not necessarily be confined to the development site, and Applicants must take advice and introduce appropriate measures to address risks both within and beyond the development site. As an example the stabilisation of shallow coal workings by grouting may affect, block or divert underground pathways for water or gas.

In coal mining areas there is the potential for existing property and new development to be affected by mine gases, and this must be considered by each developer. Gas prevention measures must be adopted during construction where there is such a risk. The investigation of sites through drilling alone has the potential to displace underground gases or in certain situations may create carbon monoxide where air flush drilling is adopted.

Any intrusive activities which intersect, disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action. In the interests of public safety the Coal Authority is concerned that risks specific to the nature of coal and coal mine workings are identified and mitigated.

The above advice applies to the site of your proposal and the surrounding vicinity. You must obtain property specific summary information on any past, current and proposed surface and underground coal mining activity, and other ground stability information in order to make an assessment of the risks. This can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)