

Erection of timber framed commercial growing house (greenhouse), a building containing barn, stabling and car port for associated smallholding use, single storey garden room and balcony to dwelling, change of use to residential curtilage including landscaping works and realignment of existing driveway.

Report Item No
A4

Dishley Farm Main Street Swebstone Coalville Leicestershire
LE67 2SG

Application Reference
14/00519/FUL

Applicant:
Mr & Mrs A Parkes

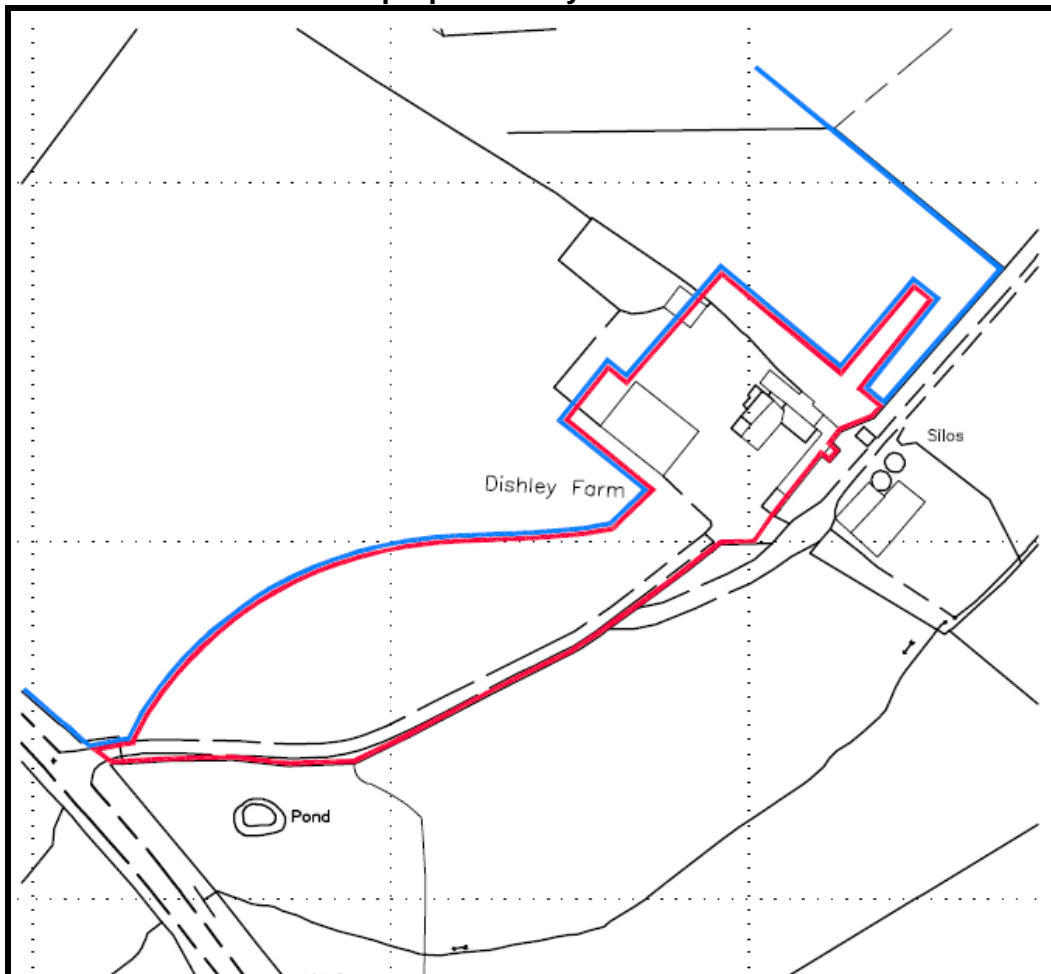
Date Registered
2 July 2014

Case Officer:
Jenny Davies

Target Decision Date
27 August 2014

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application is reported to the Planning Committee at the request of Councillor Richard Blunt as a matter of local concern.

Proposal

Planning permission is sought for the erection of a timber framed commercial growing house (greenhouse), a building containing a barn, stabling and car port for associated smallholding use, a single storey garden room and balcony to the dwelling, a change of use to residential curtilage including landscaping works and re-alignment of the existing driveway at Dishley Farm, Main Street, Swebstone.

Consultations

Members will see from the main report that there are four letters of objection from two neighbours, with no objections from statutory consultees.

Planning Policy

The site lies outside Limits to Development, as defined by the North West Leicestershire Local Plan Proposals Map 2002.

Conclusion

Whilst the activities on the site may not be agricultural in planning terms and therefore contrary to the provisions of Policy S3, they are similar in nature to such activities and as such it is considered that on balance a reason for refusal on the basis of the proposed buildings being contrary to Policy S3 could not be justified in this case.

The proposals would not adversely affect the setting of listed buildings and would retain their significance, thereby resulting in less than substantial harm to these designated heritage assets which can be justified. The new buildings would not be so significantly detrimental to the character and appearance of this countryside location nor be so prominent within the landscape to justify a reason for refusal on these grounds. It is considered that a reason for refusal relating to impact on highway safety could not be justified in this case. The proposal is unlikely to result in significant levels of noise and disturbance nor loss of light, overshadowing or creation of an oppressive environment, and the proposal unlikely to affect any protected species. It can be ascertained that the proposal will 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. The proposed development therefore accords with the planning policies stated above. 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

Planning permission is sought for the erection of a timber framed commercial growing house (greenhouse), a building containing a barn, stabling and car port for associated smallholding use, a single storey garden room and balcony to the dwelling, a change of use to residential curtilage including landscaping works and realignment of the existing driveway at Dishley Farm, Main Street, Swepstone. The site is located on the northern side of Main Street, to the north west of the village of Swepstone. The site comprises a dwelling with attached outbuildings and a detached modern farm building and is surrounded by open fields and areas of hardstanding which were formerly occupied by agricultural buildings and used in association with the former farm that operated from the site. Permission was granted in March 2013 for a change of use of land to garden area, area for growing vegetables and area for housing pigs and orchard, formation of new driveway, pond and feeder ditch and erection of gates (13/00018/FUL), which has been implemented in part. A barn located to the south east of the farmhouse is in separate ownership and benefits from planning permission for conversion to a dwelling (04/00458/FUL refers), which it is understood has been implemented.

The growing house/greenhouse would be located 16 metres to the north east of the dwelling, on an area of land that is used for the growing of vegetables. The greenhouse would measure 13.87 metres wide by 4.4 metres deep by 4.01 metres to its highest ridgeline and would be used for growing produce to extend the growing season.

The barn/stables/car port building would be located in part on the site of an existing building, some 9.5 metres to the west/south west of the dwelling. The building would have a C-shaped footprint with a maximum width of 25.43 metres, a maximum depth of 15.85 metres and a maximum ridge height of 6.745 metres and would contain a barn, two stables, a log store and three carports. The barn would be used for the housing of vehicles and machinery used in the operation of the site and for storage of produce. One of the stables would be used for lambing and farrowing.

The single storey garden room would project 6.84 metres from the original dwelling's north western elevation and the first floor balcony would be located on the north western elevation of the former barn that now forms part of the dwelling.

A garden area was approved under the 2013 permission (13/00018/FUL) which would be extended and in part be landscaped along with a terrace, immediately to the north west/north east of the dwelling. Some of the work relating to the garden area has already been undertaken.

The site is currently accessed via a driveway that leads off Main Street, which serves the site and then splits to serve the surrounding agricultural land and barn which are in separate ownership. The new driveway would be four metres wide and follows a similar route to the approved driveway (which had not been constructed at the time of the officer site visit), extending from the western end of the existing drive through an open field to an area of hardstanding to be formed to the front of the dwelling and proposed barn/stables/carport building. The western portion of the existing drive would be retained as it is in separate ownership, with the remainder of the existing drive to the site being removed.

Amended plans and additional information has been received following concerns raised in respect of the need for and scale of the proposed buildings and their visual impact.

Tempe Farm, which is located to the north of the site, is a Grade 2 listed building. The site lies within the catchment area of the River Mease Special Area of Conservation. The site's planning history is set out in the report for planning permission ref. no. 13/00018/FUL.

2. Publicity

6 no. neighbours have been notified (Date of last notification 27 October 2014)

Site Notice displayed 25 July 2014

Press Notice published 23 July 2014

3. Consultations

Nicola Land Swepstone Parish Council consulted 15 July 2014

County Highway Authority consulted 15 July 2014

Environment Agency consulted 15 July 2014

Natural England consulted 15 July 2014

LCC ecology consulted 15 July 2014

NWLDC Conservation Officer consulted 26 August 2014

4. Summary of Representations Received

Four letters of representation (from the occupiers of two nearby dwellings) have been received which object to the application on the following grounds:

Principle/Need

- not clear what the proposed buildings would serve;
- assumption that there is a hidden agenda relating to the need for a large building and its future use;
- no evidence that a genuine farming enterprise has been established at a scale and nature that justifies the new buildings;
- not usual practice to erect buildings in the hope that future activity may develop to support its use;
- no evidence of a commitment to the buildings' agricultural use and so they could be used for domestic purposes;
- insufficient land and agricultural activity to justify buildings of this size;
- genuine intention and ability to engage in agriculture needs to be properly considered;
- unlikely that an agricultural operation of this size could justify the expense of a tractor and other machinery;
- not enough land on the site to cater for three horses and therefore hay would need to be brought on site;
- greenhouse is too large for its location and the produce grown will be too much for the family's consumption;
- greenhouse is elaborate and domestic in character;
- existing barn could be refurbished and is capable of accommodating machinery and equipment;
- new buildings are domestic and will serve residential needs of the occupiers;
- contradiction to require large car port spaces for the applicant's disabled son and then move them away from the dwelling;
- range of existing outbuildings could be upgraded to provide these parking spaces;
- lack of need for development given existing garaging/stabling attached to the dwelling;
- personal needs of the applicant's son are a material consideration in respect of one of the

garages but do not outweigh the harmful aspects of or justify the proposal;

- applicants have not demonstrated that the buildings are essential for the efficient long term operation of agriculture and is contrary to Policy S3 of the Local Plan;
- amended information does not provide additional information in respect of some matters nor justification for the scale of and need for the proposal;
- intention presumably is to sell produce off-site which implies vehicle movements;
- level of production could result in an application for a farm shop;
- vegetable production at this scale is a business and not a domestic/hobby use;
- the site should be assessed for business rates;

Visual Impact

- new barn would be much larger than the existing building;
- misleading to state that the new barn would only be 10% larger than the existing building as it would be 71% larger;
- scale of the proposals with new courtyard and formalisation of surrounding domestic activity would have a far greater impact on the countryside than the existing situation
- the barn would not easily assimilate into the landscape and would not appear smaller than the existing building;
- the dwelling would be overwhelmed by the scale and size of the new buildings;
- new driveway would cut across open countryside and alongside a courtyard and parking/turning area would compound impact on the countryside;
- the proposals would therefore be contrary to Policy E4 of the Local Plan;

Highway Safety

- additional traffic associated with intended use as a 'smallholding';
- increase in traffic using a below standard access;
- existing access is already overloaded due to use in connection with existing dwelling, adjacent approved dwelling, pig rearing and adjacent farmland;
- additional traffic would be generated relating to sheep rearing, greenhouse production, sale of apples, import of hay and foodstuffs and potential livery operation;
- previous refusal of a business at the site on highway safety grounds;
- introduction of retail sales should be resisted;
- creation of a separate access close to junction with Main Street could lead to confusion for visitors and result in reversing along the access drives;

Other Matters

- extent of garden land and curtilage is not clear;
- not clear whether full impact on nearby listed building and its setting has been appreciated;
- full assessment relating to impact on River Mease SAC/SSSI is required;
- land within the site is not within the applicant's ownership and no authority given for this land to be developed.

One of the letters also refers to inaccuracies in the application submission:

- the site is no longer a farm and cannot be described as an 'agricultural holding';
- it is a private dwelling and its curtilage has been delineated;
- the site is not a smallholding and has limited land ownership with a small area capable of productive use as land also given over to National Forest planting, parkland and a pond;
- if applicant wishes the site to become a smallholding he should apply for planning permission;
- the application gives the impression the property was derelict when purchased and the proposal would help to address this dereliction. However the property had been improved by the previous owners;
- the existing barn could be improved;

- goats are on the site but no evidence of pigs or sheep.

The Conservation Officer has no objections.

The County Highway Authority has no objections subject to a condition.

Natural England has no objections.

The Environment Agency advises there would be no additional foul drainage and has no further comments to make.

The County Ecologist has no objections.

The Conservation Officer has no objections.

No response has been received from Swepstone Parish Council by the date of this report.

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

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.

Save where stated otherwise, the policies of the North West Leicestershire Local Plan as listed in the relevant section below 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.

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

Paragraph 14 (Presumption in favour of sustainable development)
Paragraph 17 (Core planning principles)
Paragraph 28 (Supporting a prosperous rural economy)
Paragraph 57 (Requiring good design)
Paragraph 119 (Conserving and enhancing the natural environment)
Paragraph 134 (Conserving and enhancing the historic environment)
Paragraph 204 (Planning conditions and obligations)

Adopted North West Leicestershire Local Plan (2002)

The application site is outside Limits to Development as defined in the adopted North West Leicestershire Local Plan. The following Local Plan policies are relevant to this application:

Policy S1 - Overall Strategy
Policy S3 - Countryside
Policy E2 - Landscaped Amenity Open Space

Policy E3 - Residential Amenities
Policy E4 - Design
Policy E7 - Landscaping
Policy F1 - National Forest - General Policy
Policy F2 - Tree Planting
Policy F3 - Landscaping & Planting
Policy T3 - Highway Standards
Policy T8 - Parking

Other Guidance

National Planning Practice Guidance - March 2014.
The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').
Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).
River Mease Water Quality Management Plan - August 2011.
River Mease Development Contributions Scheme - November 2012.

6. Assessment

The main issues for consideration in the determination of this application relate to the principle and sustainability of the development, its impact on a nearby listed building, its design and visual impact and its impact on highway safety, residential amenities, protected species and on the River Mease Special Area of Conservation.

Principle and Sustainability

The application site is located outside the limits to development where permission for new development would not normally be granted unless it is essential for the efficient long term operation of agriculture or forestry, and other specific uses, as set out in Policy S3 of the North West Leicestershire Local Plan. However there can be scope for ancillary development associated with existing sites in the countryside, including the erection of extensions to dwellings. The landscaping of part of the approved garden area and its extension would be immediately adjacent to the dwelling and would form part of this domestic area of the site. The drive would largely replace an existing driveway to the site and mostly follows the route of the driveway approved in 2013.

Under the 2013 application the activities proposed for the site were considered to fall outside the definition of agriculture on the basis that the activities were primarily for the personal use of the applicant and his family. It was however acknowledged that the activities would be very similar in nature to an agricultural use and as such it would be difficult to refuse the application based on non-compliance with Policy S3.

Under the current application, the supporting information refers to the site as a smallholding and advises that the site would be operated by the applicants as a family and they would not be employing any staff although they may require casual assistance in the autumn to help with apple picking. The application also advises that the site would produce approximately 10 times the level of produce used by an average family and that surplus produce would not be sold but given to a nearby pub or donated to local schools. It is therefore difficult to ascertain whether an agricultural use is taking place on the site. Even if the activities were considered to not be agricultural, they are similar in nature to an agricultural use.

The consideration therefore turns to whether the proposed buildings are acceptable in principle in this countryside location when considering the proposal against the NPPF and Policy S3. Regardless of whether the buildings are required for an agricultural or domestic/hobby use, consideration of whether they are reasonably necessary for the operation and needs of the site is required, in terms of overall need and the buildings' scale and design. Concerns have also been raised that buildings should not be erected in the hope that future activity may develop that requires such buildings.

Given the existing/proposed activities it would not be unreasonable to expect a building to be provided in connection with these uses, for storage of machinery, equipment and produce, nor for a greenhouse to be provided on a site where produce is grown. Although it is acknowledged that the greenhouse is larger than most domestic greenhouses, it is also noted that the applicants grow significantly more produce than most families and have the space to do so. The supporting information advises that the barn is required for the housing of vehicles and machinery necessary for the operation of the site and for storage of produce and hay and that the greenhouse would be used to grow vegetables/fruit in order to extend the growing season.

The barn element is considered to be an appropriate design for a storage building in a rural location. Furthermore some activities are already taking place at the site which would require machinery/equipment and space for storage, e.g. vegetable growing, apple trees, keeping of animals. It may be likely that hay would need to be imported and therefore stored on site. In addition, parts of the site form National Forest planting and grassland/parkland, which in themselves are likely to require some equipment for maintenance. Whilst the greenhouse has a somewhat domestic appearance it would not be overly detailed and would appear and function as a greenhouse.

As the stables would primarily be used for recreational purposes they are acceptable in principle under Policy S3. There is nothing within the application to suggest that a commercial equestrian use/livery would be operated from the site. Using the guidance relating to the number of horses and required grazing land provided by the British Horse Society it appears that there is sufficient land available within the site to graze two horses.

It would be desirable for the car ports and log store to be located within the single storey outbuildings attached to the dwelling and permission was previously granted in May 2006 (06/00395/FUL) for conversion of these outbuildings in part to car ports, which has not been undertaken. It is however acknowledged that in order to provide covered parking spaces some alterations would need to be undertaken in particular due to larger spaces being required due to the need for larger vehicles due to the personal circumstances of the applicants' son. The applicants were asked to consider this option but advise that the future accommodation requirements of their disabled son need to be addressed and these outbuildings have the potential to provide this accommodation. Given that the car ports/log store would not form the dominant element to the new building, it is considered that it would be difficult to justify a refusal of the proposals on the basis of the inclusion of the car ports/log store within this building.

It is noted that there is an existing barn on the site, although it is of poor design quality, would require some refurbishment (in particular to upgrade/replace the large timber boards that for the walls) and currently is not used in connection with the activities taking place on the site. The proposed building would be of an appropriate design for its proposed uses and would result in the benefit of removing an unsightly building. The floor area of the barn/stables/car port would be smaller than the existing building (approximately 311 square metres compared with 350 square metres) although this does not include the courtyard (which would increase the floor area to 401 sqm - not significantly greater than the existing building). It is also acknowledged

that the new building would in part be taller than the existing structure although this only relates to the barn area. It is also not unusual to find an area of hardstanding associated with stables and this area is small in scale. Both the barn building and the greenhouse have been reduced in size, with reductions in their height, depth and width, which in turn have resulted in a reduction in the floor area of the barn and the removal of a lambing/farrowing area, store and toilet and large passageway. It is however considered that the area of hardsurfacing proposed between the eastern end of the new driveway, the new building and the dwelling would be excessive in size and have an impact on visual amenities. As such it is considered that a condition should be imposed requiring a revised layout for this area.

Given the above, it is considered that if the buildings are reasonably necessary for the requirements of the activities taking place on the site, in regard to overall need and the buildings' scale and design. Paragraph 28 of the NPPF advises that plans should support the sustainable growth and expansion of all types of business and enterprise in rural areas, through conversion of existing buildings and well designed new buildings and although the activities on the site may not constitute a business it can be argued that they form an enterprise. Whilst the activities on the site may not fall within the definition of agriculture and would therefore be contrary to the provisions of Policy S3, they are similar in nature to such activities. As such it is considered that on balance a reason for refusal on the basis of the proposed buildings being contrary to Policy S3 could not be justified in this case.

Concerns have been raised that the scale of the proposals means that an element of commercial activity is proposed. As noted above the 2013 application referred to some commercial sales but that produce would be delivered, and this application notes that produce would be used by the family or donated/given away. A condition can be imposed to prevent any retail sales from the site and there is no evidence on the site or within the application that large scale commercial sales are proposed. However it should also be noted that if activities took place which resulted in the uses falling within the definition of agriculture, then planning permission would not be required for the use of land and buildings for such use. It is also deemed necessary in this case to impose a condition only allowing use of the buildings for the uses specified or for agricultural use given that other uses could have other planning impacts that would need to be considered.

Historic Environment

Tempe Farm lies 250 metres to the north of the site and St Peter's Church and No. 1 Church Street, Swepstone and its gate piers and wall lie over 500 metres to the south east; all are designated heritage assets as defined in the NPPF as they are Grade 2* and Grade 2 listed buildings. Tempe Farm originates from the 18th/early 19th century and stands on its own within the landscape, surrounded by open fields and young woodland plantations and is therefore prominent in some views from Main Street and the surrounding area. It is understood that the former farmhouse and surrounding land was owned by the Bakewell family from the 17th to 19th centuries, with the original farmhouse being extended in the late 18th century by Robert Bakewell (information taken from leaflet 'Tempe - 1657-2007 - A Brief Guide by Donald and Gerhild Donald).

St Peter's Church is a mainly fourteenth century structure with some fifteenth century alterations. The tower of the church was refaced in ashlar in 1842 and the furnishings of the church re-ordered by Henry Isaac Stevens (1806-1873) of Derby in 1842. (St Peter's Church, 1980, p3). The closed north door may have formerly provided access to the demolished Swepstone Hall and one of the bells is a memorial to those of the parish whom fell in the First and Second World Wars (St Peter's Church, 1980, p3). The church has a very prominent

position within the village and is visible from all approaches.

No. 1 Church Street was mainly built in the 18th century on a 16th and 17th century core with 19th century alterations although in its external appearance the building is largely a product of subsequent re-buildings in local red brickwork. The survival of stone plinths suggests that the existing building occupies the site of an earlier timber framed property. No. 1's gate piers and wall also date from the 18th century.

Therefore the listed buildings form an important part of the history of this locality and are considered to be heritage assets of some significance which have value for this and future generations.

The land rises up gradually from the road from the south towards the dwelling but there are higher viewpoints of the site from surrounding land in particular from the south and south east. The existing buildings on the site and adjacent land form part of the foreground to Tempe Farm and part of the backdrop to the church and No. 1 Church Street, and have done so, along with other modern farm buildings at the site which have now been demolished, for some time. The new buildings and garden land would be in close proximity to existing development at the site, including on the site of an existing building and the extensions would be small in scale and not prominent in the settings. The driveway would extend development within the foreground but given its nature and scale it would not be overly prominent in their settings. It is therefore considered that the proposals would not adversely affect the setting of the listed buildings and would retain their significance, thereby resulting in less than substantial harm to these designated heritage assets.

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 less than substantial harm to the heritage assets is in this case considered on balance to be outweighed by the removal of an unsightly building and the supporting of enterprise within the countryside.

Design and Visual Impact

The extension and balcony would be small in scale when compared to the scale of the existing dwelling and neither would be overly prominent within the countryside. Although neither element reflects the traditional design of the dwelling, they would not be so detrimental to the dwelling's character to justify a reason for refusal. Although the landscaped and extended areas of the garden would be large in scale, it would be well related to the dwelling and would not be unduly prominent within the rural landscape. On this basis it is considered that the garden would not be significantly harmful to the character of the area. Conditions can be imposed limiting the extent of the garden to this area only and removing permitted development rights.

The driveway would run through an open field but most of the existing driveway would be removed, and as noted above it would largely follow the route of the approved driveway.

The greenhouse is considered to be domestic in its appearance, and based on the original plans, where it was located 23.6 metres from the rear of the dwelling, this was exacerbated by its isolation from the dwelling. Subsequently the greenhouse has been reduced in scale and repositioned 16 metres from the dwelling. Concerns were also raised in relation to the scale of the barn building and amended plans have been submitted which reduce its footprint and height.

The buildings would be visible in some public views due to higher viewpoints and lesser screening from lack of vegetation, e.g. from the adjacent National Forest woodland, and lower or gappy hedgerows. However from most public viewpoints some screening is available, either from hedgerows, woodland or the existing buildings at and adjacent to the site. Furthermore whilst in some viewpoints the buildings would be prominent, e.g. from the adjacent woodland and parts of Main Street to the south/south east, in most other views the buildings would be seen at a longer distance alongside the existing dwelling and the adjacent barn and silos.

The existing barn that would be demolished can also be seen in these views and the new building would occupy an almost identical position. It is acknowledged that the new building (including courtyard) would have a larger footprint (by approximately 50 square metres), although without the courtyard its footprint would be smaller, and that the barn element would be taller by 1.15 metres. However the stables and car port element would both have lower ridge heights (the car ports by 0.1 metres and the stables by 1.1 metres) and it is considered that the overall mass of the building would be less due to the design and shape of the new building when compared to the current structure, and the inclusion of a central open courtyard. Furthermore the existing building is of poor design quality, being constructed of some form of large timber panels and a corrugated roof, and is dilapidated to some extent and the proposal would result in the removal of an unsightly structure. The new building would be constructed of horizontal timber boarding and plain clay roof tiles, which are considered to be acceptable materials for a countryside location. As noted above the greenhouse would be more domestic in nature than would be expected for a commercial agricultural operation, but it would not be overly detailed and would appear and function as a greenhouse. Therefore on balance it is considered that the new buildings would not be so significantly detrimental to the character and appearance of this countryside location nor be so prominent within the landscape to justify a reason for refusal on these grounds.

Highway Safety

Concerns have been raised by nearby residents, including the owners of the adjacent barn, which benefits from an extant permission for conversion to one dwelling, in relation to impact on highway safety, in particular in relation to confusion between the two access drives in close proximity to the junction with Main Street and an increase in traffic using a sub-standard access which is already in heavy use.

The layout of the new access is similar to that on the 2013 approval. The existing drive is currently used by the applicant and his family who live at Dishley Farm, who undertake some of the activities which were approved under the 2013 permission, and farm vehicles accessing the surrounding farm land (which is not in the applicant's ownership). The new drive would serve Dishley Farm only and its associated uses, with the existing drive serving the adjacent agricultural land and the barn conversion once completed. The stables would be for use solely in connection with Dishley Farm and there is no reference to a commercial/livery operation.

The County Highway Authority advised in respect of the 2013 scheme that it was satisfied with the internal driveway arrangements due to the small amount of traffic that would use the access. The Highway Authority has no objections to the current scheme subject to a condition requiring the buildings to remain ancillary to the use of the site and not be used separately, on the basis that the access is adequate to cater for traffic generated by the use of the site but not for additional traffic is sub-divided. A previous application for use of an outbuilding at the site for a carpentry workshop (08/01299/FUL) was refused in October 2008 on highway safety grounds relating to an increase in turning traffic onto an unrestricted and unlit road, with a lack of appropriate visibility and where turning manoeuvres would be dangerous. The workshop was a

commercial operation of the then occupiers of Dishley Farm who had employees and vehicles (including LGVs) coming to and from the site.

Although it appears there may be some commercial sales associated with the uses already approved at the site it is understood that no retail sales would take place from the site (which can be restricted by condition) and produce would be delivered. The buildings are required for uses similar in nature to agriculture and given their scale and proposed mode of operation are unlikely to generate significant levels of traffic. However it should also be noted that if more commercial activities took place which resulted in them being defined as agricultural, then planning permission would not be required. Furthermore restrictions on the operation of the site as suggested by one of the letters of objection cannot be imposed via planning conditions; such restrictions would not meet the tests of planning conditions set out in the national planning practice guidance as they would be unenforceable and unreasonable, in particular as they would place disproportionate requirements on the applicants and prevent the use of land for agriculture which does not require planning permission.

Therefore on the basis of the current application and submitted information there is unlikely to be a significant increase in the amount of traffic visiting the site and using the new driveway. In view of the above it is considered that a reason for refusal relating to impact on highway safety could not be justified in this case.

Residential Amenities

Currently the nearest dwellings are Tempe Farm, some 250 metres to the north of the site, and Dishley Grange and Spring Cottage, some 250 metres to the south. The planning permission to convert the nearby barn has been implemented but has not been completed and so the building is not currently used as a dwelling. Extant planning permissions are a material consideration and the impact on this proposed dwelling needs to be taken into account. The new driveway would not be any closer to the proposed dwelling than the existing driveway. The garden area would be used in connection with residential occupation of Dishley Farm and a garden close to other dwellings is a common occurrence. The greenhouse would be 26 metres from this barn and the barn building would be over 48 metres away. As noted above if any retail sales take place in the future then the Authority can investigate and it is likely that an application for planning permission for such use would be required. Given these distances the level of traffic and activity associated with the proposal is unlikely to result in significant levels of noise and disturbance nor loss of light, overshadowing or creation of an oppressive environment.

Protected Species

A pond and a stream lie to the south east of the site and a pond has been created on the southern part of the site. There are hedgerows, trees, young woodland, overgrown grass/vegetation and pastureland close to the site. All of these are features that could be used by European Protected Species (EPS) and as such species may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions.

An Ecology Survey was undertaken in June 2014 with particular reference to bats, breeding birds, reptiles and great crested newts (GCN). No evidence of bat or bird activity, roosts or current bird nesting was found in the building to be demolished. Although habitat around this barn is considered suitable for reptiles and amphibians, this is a new habitat created due to demolition works on the site and is effectively an island habitat within an intensively managed landscape. The pond on adjacent land was scored below average suitability for GCN under a

Habitat Suitability Index assessment. The previous Ecology Report under the 2013 application found that the habitat around the pond is good for GCN. However the pond and immediate habitats are outside the application site and would not be directly affected by the works. The habitat within the application site on which the drive would be constructed is largely sub-optimal for GCN due to the dominance of short mown grassland. Main Street is also considered to be a barrier to GCN entering the site from the land to the south of the road. No GCN were found during the fencing off for the construction of the new pond. Therefore the survey suggests that no precautionary measures would be required save for contractors to be made aware of the potential for GCN. The County Ecologist is satisfied with this approach and advises that GCN are unlikely to be present on or near to the site.

Neither the submitted report nor the County Ecologist has advised that other protected species are likely to be affected by the proposal. The greenhouse would be erected on mown grassland and the barn building in place of the existing barn. The stream is not immediately adjacent to the site and the existing driveway and road are also likely to act as barriers for any species entering the site from this stream. None of the existing hedgerows, trees or young woodland would be affected by the proposal.

Given the above it is considered that the proposal is unlikely to affect any protected species. Therefore the Authority considers that the proposal would not offend against Article 12(1) of the Habitats Directive and that an EPS licence would not be required.

Impact on the River Mease Special Area of Conservation/SSSI

The site lies within the catchment area of the River Mease Special Area of Conservation (SAC). Furthermore a nearby brook appears to be a tributary of the River Mease. Discharge from the sewage treatment works within the SAC catchment area is a major contributor to the phosphate levels in the river. Therefore an assessment of whether the proposal would have a significant effect on the SAC is required.

The River Mease Developer Contribution Scheme (DCS) has been produced to meet one of the actions of the River Mease Water Quality Management Plan (WQMP). The DCS advises that all new development which contributes additional wastewater to the foul water catchment areas of the treatment works within the SAC catchment area will be subject to a developer contribution. The DCS is considered to meet the three tests of the 2010 CIL Regulations and paragraph 204 of the NPPF.

As no staff would be employed (other than potentially casual labour who would make use of existing facilities and which would not result in a significant permanent increase of people on the site), no retail sales would take place from the site and any water used in association with the stabling of horses is likely to be low in quantities and is unlikely to discharge into a septic tank on site. As such there is unlikely to be an increase in foul drainage discharge from the site and therefore the DCS does not apply. Natural England and the Environment Agency have no objections. Although no details have been provided of the location of the septic tank, given that foul discharge is unlikely to increase such information is not required. A condition can be imposed requiring surface water from additional roof areas/hardsurfacing to discharge to soakaway or other suitable sustainable drainage system which can be designed to include measures to prevent pollution of the nearby stream. Given the proximity of this stream and that the driveway would cross a land drain that discharges into the stream a condition could be imposed relating to submission of a construction management plan.

Therefore it can be ascertained that the proposal will 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.

Other Matters

The site lies within Flood Zone 1 and the area to be developed under the current application is less than one hectare in size. Therefore, there is no requirement for the submission of a Flood Risk Assessment under the Environment Agency's Standing Advice.

It is noted that part of the site (understood to be in the region of the new driveway and site access) is outside the applicant's ownership and that the owners have not given permission for their land to be developed. However no evidence has been provided to suggest that such consent would not be given in the future and in any case this land forms a small part of the site and would not affect the provision of the new buildings/garden/extensions.

In response to the other matters set out in the letters of representation that are not addressed above, the application of business rates is not a planning matter. Applications have to be considered on the basis of the information submitted with an application and the potential future use of the site (for different uses than those referred to in the application) cannot be taken into account. Should such uses occur then the Authority has powers to investigate. It is considered that the works that have already taken place at the site and to the dwelling have no weight in the consideration of this application as they have occurred without the need for the proposed development.

Conclusion

Whilst the activities on the site may not be agricultural in planning terms and therefore contrary to the provisions of Policy S3, they are similar in nature to such activities and as such it is considered that on balance a reason for refusal on the basis of the proposed buildings being contrary to Policy S3 could not be justified in this case. The proposals would not adversely affect the setting of listed buildings and would retain their significance, thereby resulting in less than substantial harm to these designated heritage assets which can be justified. The new buildings would not be so significantly detrimental to the character and appearance of this countryside location nor be so prominent within the landscape to justify a reason for refusal on these grounds. It is considered that a reason for refusal relating to impact on highway safety could not be justified in this case. The proposal is unlikely to result in significant levels of noise and disturbance nor loss of light, overshadowing or creation of an oppressive environment, and the proposal unlikely to affect any protected species. It can be ascertained that the proposal will 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. The proposed development therefore accords with the planning policies stated above. It is therefore recommended that planning permission be granted.

RECOMMENDATION, PERMIT, subject to the following condition(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 proposed 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 Local Planning Authority on 2 July 2014;
 - Drawing No. 430-PY.09 (As Existing Drawings) received by the Local Planning Authority on 2 July 2014.
 - Drawing No. 12.2952.01 (Topographical Survey - Sheet 1 of 3) received by the Local Planning Authority on 2 July 2014;
 - Drawing No. 12.2952.02 (Topographical Survey - Sheet 2 of 3) received by the Local Planning Authority on 2 July 2014;
 - Drawing No. 12.2952.03 (Topographical Survey - Sheet 3 of 3) received by the Local Planning Authority on 2 July 2014;
 - Drawing No. 12.2952.09C (Detailed Planning Proposals - Sheet 1 of 5) received by the Local Planning Authority on 29 September 2014;
 - Drawing No. 12.2952.10C (Detailed Planning Proposals - Sheet 2 of 5) received by the Local Planning Authority on 29 September 2014;
 - Drawing No. 12.2952.11A (Detailed Planning Proposals - Sheet 3 of 5) received by the Local Planning Authority on 2 July 2014;
 - Drawing No. 12.2952.12B (Detailed Planning Proposals - Sheet 4 of 5) received by the Local Planning Authority on 29 September 2014;
 - Drawing No. 12.2952.13B (Detailed Planning Proposals - Sheet 5 of 5) received by the Local Planning Authority on 29 September 2014;

Reason- To determine the scope of this permission.

- 3 No development shall commence on site in relation to the construction of any part of the barn/stable/carport building hereby approved until the existing farm building shown on Drawing Nos. 12.2959.09C, 13.2952.10C and the topographical surveys has been demolished in full, unless an alternative timescale for its demolition has first agreed in writing by the Local Planning Authority.

Reason - To avoid the possibility of the coexistence of two unrelated developments which would be visually unsatisfactory.

- 4 Notwithstanding the submitted plans, no development shall take place in respect of the new driveway and barn/stable/carport building until revised details of the layout of the driveway and parking/turning area adjacent to the barn/stable/carport building and dwelling have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and shall thereafter be retained.

Reason- the extent of the proposed area would be detrimental to the visual amenities of the area.

- 5 The external materials to be used in the new driveway/parking/turning area, barn/stables/carport building, greenhouse, extension and balcony hereby permitted shall be in strict accordance with those specified in the application unless alternative materials are first agreed in writing with the Local Planning Authority.

Reason- to ensure a satisfactory standard of external appearance.

- 6 Before first use of the barn/stable/carport, greenhouse, amended and extended garden area and driveway, details of a soft landscaping and boundary treatment scheme for the relevant part of the development shall be submitted to and agreed in writing by the Local Planning Authority. The agreed soft landscaping scheme shall be provided in the first planting and seeding season following the first use of the relevant part of the site and the agreed boundary treatment scheme shall be provided before first use of the relevant part of the site, unless alternative details or alternative implementation programmes are first agreed in writing with the Local Planning Authority.

Reason- to ensure a satisfactory landscaping scheme is provided within a reasonable period; in the interests of visual amenity.

- 7 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.

- 8 The curtilage relating to the garden area hereby approved shall be confined to the area hatched on the attached plan number LPA/14/00519/FUL.

Reason - To enable the Local Planning Authority to retain control over future development in view of the form of the development proposed and its location.

- 9 Notwithstanding the provisions of Class E of Part 1 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no building, enclosure, swimming or other pool shall be provided within the curtilage of the dwelling shown on Plan No. LPA/14/00519/FUL unless planning permission has first been granted by the Local Planning Authority.

Reason- To enable the Local Planning Authority to retain control over future development in view of the site's location in the countryside.

- 10 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting these Orders) the buildings hereby approved shall only be used for the purposes specified in the application or for agricultural purposes, shall always remain ancillary to the use of the Dishley Farm site, shall not be used or occupied independently and the stables shall not be used in connection with a riding school, livery stables or any other business or commercial use.

Reason: Although the vehicular access is adequate to cater for traffic generated by the use of the premises, it is inadequate to cater for additional traffic that alternative uses and sub-division of the site could bring about; alternative uses could also result in other planning impacts, e.g. impact on the River Mease SAC/SSSI.

- 11 No retail sales of produce (including from any animals) shall take place from the site.

Reason- retail sales may not be acceptable due to the site's location outside a settlement and may have impacts on highway safety.

- 12 No development shall commence in relation to the driveway and parking/turning areas hereby approved until the following details have been submitted to and agreed in writing by the Local Planning Authority:
- (i) a scheme for the disposal, storage and use of the spoil excavated to form the driveway, including details of areas on which the spoil will be deposited to alter ground levels and the existing and proposed ground levels in these areas;
 - (ii) a detailed method statement for construction of the driveway and parking/turning areas. The method statement should set out methodologies to remove any risk of fuel, soils, building materials and waste water entering the brook during construction, including how and where materials, fuel and plant will be stored and contained, containment of waste water on the construction site, use of site spill kits and briefing to construction staff;
 - (iii) details of the bridge that will cross the feeder ditch;
 - (iv) details of surface water runoff to the surrounding land to prevent discharge directly to the feeder ditch;
 - (v) removal of the existing driveway.

Construction works relating to the driveway shall be carried out in accordance with the agreed method statement. Any spoil excavated to form the driveway shall be stored/used in accordance with the scheme agreed under criterion (i). The driveway shall be constructed in accordance with the schemes agreed under criteria (iii) and (iv) and shall thereafter be so retained. The existing driveway shall be removed in accordance with the scheme agreed under criterion (v) within three months of the new driveway being provided.

Reason: to prevent an adverse impact on the River Mease Special Area of Conservation/SSSI; in the interests of visual amenities.

- 13 No development shall commence on site until a detailed method statement for the relevant part of the development (other than the driveway) has been submitted to and agreed in writing by the Local Planning Authority. The method statement should set out methodologies to remove any risk of fuel, soils, building materials and waste water entering the brook during construction, including how and where materials, fuel and plant will be stored and contained, containment of waste water on the construction site, use of site spill kits and briefing to construction staff. Construction works relating to each relevant part of the development shall be carried out in accordance with the agreed method statement.

Reason: to prevent an adverse impact on the River Mease Special Area of Conservation/SSSI.

- 14 Before the external materials to the roof are installed to the extension and new buildings, details of the means of surface water discharge from the new roofs to the buildings and extension to soakaway, or another alternative sustainable drainage system so that the surface water does not enter the mains sewer system, shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be provided before the external materials to the roof are installed and shall thereafter be so retained.

Reason: to prevent an adverse impact on the River Mease Special Area of Conservation; to ensure a sustainable drainage system is provided on the site.

- 15 No development shall commence on site in respect of the stables until a scheme for the storage of manure has been submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall be provided before first use of the development hereby approved and shall thereafter be retained.

Reason: to prevent an adverse impact on the River Mease Special Area of Conservation/SSSI.

- 16 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as to open inwards only.

Reason- To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway.

- 17 Notwithstanding condition 5, before first use of the driveway hereby approved, it shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 10 metres behind the highway boundary which shall thereafter be so retained.

Reason - To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the 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).
- 2 The applicants are advised that, under the provisions of the Site Waste Management Plan Regulations 2008, the works may require the preparation of a Site Waste Management Plan (SWMP). Further information can be obtained from the Department for Environment Food and Rural Affairs at www.defra.gov.uk
- 3 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £97 per request. Please contact the Local Planning Authority on 01530 454666 for further details.
- 4 Under the terms of the Land Drainage Act 1991, the prior written consent of Lead Local Flood Authority (Leicestershire County Council) is required for any proposed works affecting the flow of any ordinary watercourse. An Environmental Permit may also be required from the Environment Agency.
- 5 Great crested newts are a rare and declining group of species. Hence, great crested newts and their breeding sites/resting places are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats &c.) Regulations 1994 making it an offence to intentionally kill or injure or disturb these species whilst in a place of shelter or protection. If great crested newts or their breeding sites/resting places are discovered during work on the development, the relevant work should be halted immediately and Natural England (Tel. 0845 601 4523) should be notified and further advice sought. Failure to comply with this advice may result in

prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000 or to imprisonment for a term not exceeding six months, or both.

- 6 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