

Delegated Report

Planning Ref: 26/00280/CONDIT
Applicant: Mr R Wright
Ward: Twycross, Sheepy & Witherley



Site: Harris Bridge Farm, Burton Road, Wellsborough

Proposal: Application to vary condition 2 and 3 of planning permission 21/01301/FUL. Amendments to design of the building and new parking layout

1. Recommendations

1.1. Grant planning permission for the variation of 21/01301/FUL subject to:

- Planning conditions detailed at the end of this report.

2. Planning Application Description

- 2.1. Section 73 of the Town and Country Planning Act 1990 allows applications for planning permission to be sought for the development of land without complying with conditions that were imposed on a previous planning permission.
- 2.2. In this case, planning permission for application 21/01301/FUL granted an approval of full planning permission for a change of use of building H to mixed agriculture and commercial use (Class B2/B8), conversion of barn G to offices (Use Class E(g)) and installation of a non-hazardous waste storage and treatment facility with non-hazardous waste transfer
- 2.3. The application seeks to vary the following from the original approval (21/01301/FUL):
- C2: Vary to include amended plans
 - C3: Vary wording to reflect amended plans.

3. Description of the Site and the Surrounding Area

- 3.1. Harris Bridge Farm is located around 1.2 miles southeast of the village of Twycross and 1.7 miles northeast of Sheepy Magna village. The farm has two access points; one off a slip road of the A444 which serves the farmhouse and cottages, and the other access off Gibbet Lane which is used to access for the existing agricultural operation on site.
- 3.2. The existing agricultural operation at Harris Bridge Farm is run by P A Wright and Sons Limited who are based in Twycross. They are responsible for both the cultivation and production of agricultural produce and Wrights of Twycross who provide bulk haulage and environmental services. At Harris Bridge Farm, the current

agricultural enterprise consists primarily of the storage and maintenance of P A Wright and Sons' agricultural machinery in four barns and on an area of hardstanding.

- 3.3. The site is a typical agricultural farmyard with a mixture of modern and traditional agricultural buildings with hard standing between. Two existing silage clamps are present in the centre of the site. Barn G subject of the conversion element is a two storey, traditional building with a lean-to extension which is vacant and with limited suitability for modern agricultural use.
- 3.4. The site is well screened from the A444 by hedgerow and trees along the south/western boundaries. Some views are present from Gibbet Lane although an existing landscape bund, with currently immature tree planting, is present to the east of the site which does provide screening which is likely to enhance over time. Longer range views are possible but filtered due to surrounding vegetation.
- 3.5. There are no known heritage assets in the immediate area, with the nearest Listed building (Temple Mill) located 500m to the north east with limited intervisibility between the site and this property. The site is within Flood Zone 1.
- 3.6. With the exception of the farm dwelling the nearest residential property is Harris Bridge Cottage which is located on the south side of the A444 approximately 200m from the site.

4. Relevant Planning History

The site has benefitted from various planning approvals, however, for brevity I have included the most relevant below:

21/01301/FUL

Change of use of building H to mixed agriculture and commercial use (Class B2/B8), conversion of barn G to offices (Use Class E(g)) and installation of a non-hazardous waste storage and treatment facility with non-hazardous waste transfer
Planning permission
10/11/2023

5. Publicity

- 5.1. In accordance with Planning Practice Guidance (PPG), provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider the scale or nature of the change warrants consultation. Therefore, the Local Planning Authority can choose how to inform interest parties.
- 5.2. In this instance, the application has been publicised by letters issued to neighbours, a site notice posted within the vicinity of the site, and a press notice placed in the Atherstone Herald.
 - No comments have been received.

6. Consultation

6.1 In accordance with Planning Practice Guidance (PPG), provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider the scale or nature of the change warrants consultation. Therefore, the Local Planning Authority can choose how to inform interest parties.

6.2 There have been no responses from the following consultants:

- Twycross Parish Council
- Hinckley Area Committee

6.3 Further comments have been received from:

- LCC Highways: comments of no objection, with substantive response included within the Highways section of this report.

7. Policy

7.1 Core Strategy (2009):

7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM15: Redundant Rural Buildings
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)
- National Planning Policy for Waste (NPPW) (2014)

7.4 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide
- The Waste Management Plan for England

8. Appraisal

- 8.1. In accordance with Planning Practice Guidance (NPPG), there is no statutory limit on the degree of change permissible to conditions under Section 73 applications, but the change must only relate to conditions and not to the operative part of the permission. The operative part of the planning permission being the description of the development.
- 8.2. Section 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) and the Site Allocations and Development Management Policies DPD (2016).
- 8.3. The application seeks to vary the original permission, to amend the development plans. The principle of development within the site has been established and is therefore acceptable in principle.
- 8.4. Therefore, the key issues in respect of this application are:
- Design and impact upon the character of the area
 - Impact on neighbouring amenity
 - Highways and Parking
 - Previously imposed conditions

Design and Impact upon the Character of the Area:

- 8.5 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.6 Policy DM4 of the adopted SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and it does not undermine the physical and perceived separation and open character between settlements; and it does not create or exacerbate ribbon development. For proposals relating to the re-use of existing buildings both policy DM4 and DM15 require an enhancement to the immediate area. Policy DM15 also states that any proposed extensions or alterations should be proportionate to the size, scale, mass and footprint of the original building.
- 8.7 Policy DM5 of the MWLP states that planning permission will be granted for minerals and waste development where it is demonstrated that the proposal is well designed, contributes positively to the character and quality of the area in which it is to be located, and (where appropriate) contains sufficient provision for new woodland planting. In granting planning permission for minerals and waste development, screening (including planting in advance of the commencement of the development) will be required, where appropriate.

- 8.8 The key amendments relate to the design of the units, which now incorporate clipped gable roofs, the inclusion of zinc cladding to some elements of the units and amended openings (windows/doors). Overall, when reviewing the original approval and the amended designs, it is considered that the design amendments are welcomed and whilst introducing modern materials is of a high-quality design.
- 8.9 It is observed that the proposal includes amendments to the car parking layout, which is located in a more prominent location, and in an area which appears to have included established hedgerow, trees and shrubbery. Whilst it is appreciated that a degree of soft landscaping and proposed trees have been included within the site plan, it is considered that additional planting would be required to mitigate impact on the character of the area, when viewed from Burton Road or Gibbets Lane. As such, it is considered that the car parking amendment is acceptable subject to a landscaping condition.
- 8.10 As such, the development is not considered to have any detrimental impact on the character of the area, or the countryside, and would be in accordance with Policies DM4 and DM10 of the SADMP and Policy DM5 of the MWLP.

Impact upon neighbouring amenity

- 8.11 Policy DM10 of the SADMP seeks to ensure that development would not have significant adverse effect upon the privacy or amenity of nearby residents and occupiers of adjacent buildings, and the amenity of the occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site.
- 8.12 Policy DM2 of the MWLP states that development will be granted for minerals and waste development where it is demonstrated that the potential effects from emissions, illumination, noise, odour, vibration, traffic or visual intrusion to adjoining land uses and users and those in close proximity to the proposal would be acceptable.
- 8.13 The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.14 Paragraph 130 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.15 Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

- 8.16 The change of use established under the original permission confirmed that matters of light and noise pollution can be satisfactorily addressed, and the development by way of location would not create detrimental impacts to the neighbouring residential dwelling. It is considered that the variation to the design of the unit under this application would not create any further issues in respect on neighbouring residential amenity subject to compliance with the former conditions.
- 8.17 Therefore, the application and the development remain compliant with Policy DM10.

Highways and Parking

- 8.18 Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.19 Policy DM9 of the MWLP states that *“Planning permission will be granted for minerals and waste development involving the transportation of material by road where it is demonstrated that:*
- (i) road transport is the only practicable and environmentally preferable alternative;* (Addressed in above section)
 - (ii) the proposed access arrangements would be safe and appropriate to the proposed development and the impact on road safety of the traffic generated would be acceptable;*
 - (iii) the highway network is able to accommodate the traffic that would be generated and would have an acceptable impact on the environment of local residents;*
 - (iv) the proposal is in close proximity to the County’s lorry network and would not result in unnecessary impact on residential areas and minor roads; and*
 - (v) in the case of new waste management facilities, the proposal is in close proximity to the waste arisings that would be managed to minimise the transportation of waste.* (Addressed in above section)
- 8.20 Paragraph 110 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users Paragraph 111 of the NPPF outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 8.21 The Highways authority have been consulted as part of this application, due to the amendment of the parking provision at the site. The LHA have confirmed:
- “As part of the original application it was stated by the LHA that the farm had two existing access points; one off a slip road off the A444 Burton Road (an A classified*

road subject to the national speed limit) which serves the farmhouse and cottages, and the other access off Gibbet Lane (a C classified road subject to the national speed limit) which is used to access for the existing agricultural operation on site.

Within the original application it was also stated that the existing access serving the yard area would continue to be used to serve the proposed development while the access to the farmhouse and cottages will continue to be used for residential purposes only. This was accepted by the LHA and was advised that the continued use of the existing access on to Gibbet Lane, which is on to the lower classified road of the two access points is the preferable location for the LHA.

Furthermore, the access on to the A444 is not included within the red line boundary, therefore the LHA would not expect this access to be used by vehicles arriving or departing to / from the site.

From assessing the submitted documentation, the above still applies.

It appears that the variation applies to the building identified as 'Building G' and the off-street parking area only. The original application sought an increase in parking to 38 off-street parking spaces, the Leicestershire Highway Design Guide (LHDG) required provision for 32 off-street parking spaces based upon the information provided as part of 21/01301/FUL. The drawing titled 'Proposed Floor Plans', drawing number P03 submitted as part of this application demonstrated 65 desk spaces (35 on the ground floor and 30 on the first floor).

The drawing titled 'Proposed Site Plan', drawing number P01 demonstrates off-street parking spaces made up of 52 x standard parking spaces, six x electric parking spaces and two x accessible parking spaces. Given that the B8 / B2 required 12 off-street parking spaces this leads to a shortfall of 17 off-street parking spaces.

The LHA have taken into consideration that there is adequate space within the site for the provision of further parking and note that due to the nature of the highway network adjacent to the site it is unlikely that the shortfall would lead to inconsiderate parking within the public highway.

For the reasons set out above, the LHA would not object to the variation of conditions 2 and 3 attached to 21/01301/FUL”.

- 8.22 Given the advice from the LHA, it would be considered that the amendments to the original approval would be considered acceptable and in accordance with Policy DM17 and DM18.

Previously Imposed Conditions:

- 8.23 Permission granted under Section 73 takes effect as a new independent permission to carry out the same development as previously permitted, subject to new or amended conditions. A new permission sits alongside the original permission, which

remains intact and unamended. It is open to the Applicant to decide whether to implement a new permission or the one originally granted.

- 8.24 Therefore, in accordance with PPG, a Section 73 Decision Notice should set out all the conditions imposed on the new permission, and, for the purpose of clarity, restate the conditions imposed on earlier permissions that continue to have effect.
- 8.25 Planning permission **21/01301/FUL** was subject to 9 conditions.
- 8.26 The proposal under this Section 73 application, seeks to vary two conditions, 2 (approved plans) and 3 (parking and turning) the updated conditions are reflected at the end of this report. In addition a new condition is required relating to the landscaping of the scheme which is condition 10 in the below recommendations.
- 8.27 All the conditions remain reasonable and necessary to ensure satisfactory development of the site. No additional conditions are considered to be necessary.

9. Equality Implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission is granted, subject to amended conditions. No additional conditions are considered necessary.

11. Recommendation

- 11.1 **Grant planning permission for the variation of 21/01301/FUL** subject to:

- Planning conditions detailed at the end of this report.

11.2 Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration three years from the date of permission 21/01301/FUL (10th November 2026).

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall not be carried out otherwise than in complete accordance with the submitted application details, received by the Local Planning Authority as follows:

- Site Location Plan Drg 127785-200
- Proposed Site Plan, Drg No. 1684 P01
- Proposed Roof Plan, Drg No. 1684 P02
- Proposed Floor Plans, Drg No. 1684 P03
- Proposed Elevations, Drg No. 1684 P04
- Proposed Side Elevations, Drg No. 1684 P05

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with 'Proposed Site Plan, Drg No. 1684 P01'. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally and to enable vehicles to enter and leave the site in a forward direction in the interests of highway safety and in accordance with policies DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document (2016), Policy DM9 of the Leicestershire

Minerals and Waste Local Plan (2019) and the National Planning Policy Framework (2024).

4. The development shall be carried out in accordance with the approved lighting plan drawing no. D50753/LC/C. The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to a variation. The development shall only be illuminated during working hours.

Reason: To protect the appearance of the area, the environment and local residents from nuisance from artificial light in accordance with Policies DM6, DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policy DM2 of the Leicestershire Minerals and Waste Local Plan (2019) and the National Planning Policy Framework (2024).

5. The development shall be carried out in full accordance with the Sharps Redmore 'Sound Level Assessment'. Within three months of the date of this permission a 2.5m acoustic grade barrier shall be installed in accordance with paragraphs 4.13 and 4.14 of the 'Sound Level Assessment', thereafter this shall be maintained and retained in perpetuity. Offloading, processing or sorting of waste shall be limited to the following hours:

Monday – Sunday 07:00- 18:00

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policy DM2 of the Leicestershire Minerals and Waste Local Plan (2019) and the National Planning Policy Framework (2024).

6. The offices (barn G) hereby approved shall be used as offices only and for no other use, including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To ensure that the proposed development is compatible with existing development in the locality and the countryside, to protect neighbouring amenity and in the interests of highway safety in accordance with Policy DM4, DM10, DM17 and DM18 of the Site Allocations and Development Management Policies DPD.

7. The mixed agriculture and commercial building (building H) shall be used for agricultural uses and as a workshop to maintain machinery and vehicles alongside the storage of equipment used in relation to the environmental services only and for no other uses, including any other purpose in Class B2 or B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To ensure that the proposed development is compatible with existing development in the locality and the countryside, to protect neighbouring amenity and in the interests of highway safety in accordance with Policy DM4,

DM10, DM17 and DM18 of the Site Allocations and Development Management Policies DPD.

8. The windows in the ground and first floor of the north west elevation, excluding the rooflights, of the offices hereby approved shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and shall be non-openable. Once so provided the windows shall be permanently maintained as such at all times thereafter.

Reason: To safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. Notwithstanding the provisions of Article 3, Schedule 2, Part 7, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no extensions or alteration of the offices hereby approved shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. Prior to first use of the development hereby approved, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall address replacement trees, wider landscaping enhancements within the site and an implementation and retention programme.

Reason: To ensure a satisfactory form of development and the enhancement of the landscaping at the site, in accordance with Policies DM4, DM6 and DM10 of the adopted Site Allocations and Development Management Policies DPD (2016).

a. **Notes to Applicant**

1. Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>