DELEGATED REPORT

Recommendation Made: 4 April 2011

Reference:- 11/00006/CONDIT **Parish:- Peckleton Parish Council**

Applicant:- Mr B Moylan
Island Lane Farm
Ashby Road
Stapleton
Leicester

Location:- Island Lane Farm Ashby Road Stapleton Leicester Leicestershire

Proposal:- REMOVAL OF CONDITION NO.1 OF PLANNING PERMISSION 05/00029/CONDIT

Introduction:-

This is an application to vary condition 1 attached to planning permission 05/00029/CONDIT. Condition 1 states that 'this permission shall operate for the sole benefit of Mr B Moylan and shall not run with the premises'. The reason for the condition was 'But for special circumstances of the applicant, the Local Planning Authority would not have been prepared to grant planning permission.'

Island Lane Farm is located west of Ashby Road (A447). The farmhouse is set 100 metres away from the road, the existing three storey property has a classical design and proportions, which were extended in 1998 (98/00427) with a two storey extension that reflects the character and design of the farmhouse. An application to change the use of the existing outbuildings to B8 use was approved (02/01015/COU) for a temporary period of 3 years. In 2005, a further application was received and was approved which granted a permanent change of use subject to conditions, application 05/00029/CONDIT refers.

The Design and Access Statement submitted with this application states that the use will be as currently exists on site.

History:

05/00029/CONDIT Variation of Condition 1 of application 02/01015/COU to allow the continued use of outbuildings for storage workshop and office and improvements to farm access. Approved 09.03.05

02/01015/COU Change of use of outbuildings to storage workshop and office and improvements to access Approved 11.11.02

Consultations:-

No objections received from:

The Director of Environment and Transport (Rights of Way)
The Head of Community Services (Pollution)

Development Plan Policies:-

Local Development Framework-
Core Strategy- None relevant

Hinckley and Bosworth Local Plan

Policy BE1- Design and siting of development.
Policy NE5 - Countryside
Policy T5 - Highways Issues

Appraisal:-

Special Circumstances

Condition 1 states that 'this permission shall operate for the sole benefit of Mr B Moylan and shall not run with the premises'. The reason for the condition was 'But for special circumstances of the applicant, the Local Planning Authority would not have been prepared to grant planning permission.' The history files have been checked but there is no further information as to the special circumstances which existed at the time the original planning permission for the use was approved.

The Local Planning Authority has the ability to impose conditions that, in its opinion, are necessary, relevant to planning, relevant to the development being permitted, precise, enforceable and reasonable in all other respects (Circular 11/95). One key test of whether a particular condition is necessary is if planning permission would have been refused if the condition were not imposed. Otherwise, such a condition would need special and precise justification. Unless otherwise specified, a planning permission relates to land rather than those persons who own or occupy it. Government advice (para 93) is such that personal conditions should only be applied in exceptional circumstances. It states that 'there are occasions, however, where it is proposed exceptionally to grant permission for the use of a building or land for some purpose which would not normally be allowed at the site, simply because there are strong compassionate or other personal grounds for doing so. In such a case the permission should normally be made subject to a condition that it shall enure only for the benefit of a named person-usually the applicant'.

In this case, it is considered that the other existing conditions will safeguard amenity and that exceptional circumstances do not apply in this case.

In the absence of an understanding of the special circumstances the application has been appraised as if it were a new proposal to understanding if it is in conformity with the development plan. The main issues for consideration are whether the use is appropriate in the countryside location, whether it results in any unacceptable impact upon residential amenity or highway safety.

Impact on Neighbours

There is no change to the scale or operation of the business use proposed within this application. The nearest neighbour to the site (Bungalow Farm) is approximately 100 metres from the business operation. Other conditions such as a restriction on the use to B8, no outside storage, workshop and barns to be one operation only, restriction on hours of operation were imposed on the original application to ensure that the use was compatible with neighbours. Removal of the personal condition as proposed within this application is not considered to be detrimental to neighbours.

Impact on the Countryside

The original application dealt with the reuse of redundant farm buildings and the use for employment is generally considered appropriate subject to ensuring that the impact on the countryside location is acceptable. In this case, there is little evidence of the business use taking place from outside of the barns and therefore the impact on the countryside is considered acceptable. As stated above, the scale and operation of the business is not proposed to be changed by the submission of this application. The other conditions imposed are considered sufficient to ensure that the use is compatible with its countryside location.

Highways

The access to the site was required to be widened and surfaced as part of the 02/01015/COU planning permssion. These works have been carried out. There is detriment in terms of highways safety in relation to the amendment of the condition.

Conclusion

The proposed use has been fully appraised and has been found to not result in any harm on the character of the countryside, highway safety or residential amenity and is therefore in conformity with the development. Whilst a personal planning permission was considered appropriate previously, there are no identified material

considerations that would suggest this remains the case. Accordingly, the application is recommended for approval subject to conditions.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan and be acceptable in terms of the countryside location and would not have a material detrimental affect on the amenities enjoyed by the occupiers of neighbouring dwellings.
Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1 and NE5

1 This permission relates to the variation of condition 5 of planning permission reference 05/00029/CONDIT dated 09 March 2005, a copy of which is appended hereto and the conditions imposed by the decision notice in relation to the previous application shall be deemed to apply to the grant of permission in respect of application 11/00006/CONDIT [the current application] save in so far as they are amended by virtue of the decision notice in relation to the current application or where variations subsequent to the previous application have been approved in writing by the local planning authority.

2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Design and Access Statment and application received on 15 February 2011.

Reasons :-

1 To define the permission and to ensure that all other conditions attached to the original consent still apply.

2 For the avoidance of doubt and in the interests of proper planning.

Notes to Applicant:-

1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.

2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.

3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.

4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

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