

**Reference:** 10/00264/OUT  
**Date submitted:** 29.04.10  
**Applicant:** WL Child and Sons  
**Location:** Childs Cottages, Burton Road, Melton Mowbray  
**Proposal:** Outline permission for replacement residential development

**Proposal :-**

This application seeks outline planning permission for a replacement dwelling on a site which lies outside of the village envelope and approximately 80 metres from the village of Burton Lazars. All matters are reserved for future consideration. The existing cottages have previously been converted to form one 4 bedroom dwelling and it sits amongst agriculture land, the property is not subject to restrictive occupancy conditions. The site boundary consists of hawthorn hedging and there is no visible vehicle access available to the dwelling and currently vehicles park on the highway verge abutting the A606. This outline application has been accompanied with an indicative access plan which accords with historical Ordnance survey maps.

The application is to be considered by Committee due to the proposal representing a departure to the development plan.

**Relevant History:-**

There are no relevant histories available for the site.

**Planning Policies:-**

**PPS 1: Delivering Sustainable Development** - The guidance says that planning should promote sustainable and inclusive patterns of development. PPS1 requires local authorities to deliver development that is located in areas which reduce the need to travel by car and provide access to all members of the community to jobs, health, housing, education, shops, leisure, and community facilities. PPS1 suggests that the focus for development should be existing centres and discourages any new development which would impact negatively on the environment and actively encourages development which reduces the impacts of climate change.

**PPS 3: Housing** - amplifies the advice set out in PPS1, and particularly says that housing should be developed in suitable locations, which offer a good range of community facilities and with good access to jobs, key services and infrastructure. The priority for development in such locations should be previously developed land, where appropriate. The amended statement has removed residential garden areas from the brownfield classification. PPS3 also sets out clear advice on determining planning applications, stating that we should have regard to the suitability of a site for housing (including its environmental sustainability) and that we should ensure that proposals are in line with housing objectives and do not undermine wider policy objectives.

**PPS 7 - Sustainable Development in Rural Areas** - states that many country towns and villages are of considerable historic and architectural value, or make an important contribution to local countryside character. Planning authorities should ensure that development respects and, where possible, enhances these particular qualities. It should also contribute to a sense of local identity

and regional diversity and be of an appropriate design and scale for its location, having regard to the policies on design contained in PPS3.

**Melton Local Plan (saved policies):**

Policies OS1 and BE1 allow for development within Village Envelopes providing that:-

- the form, character and appearance of the settlement is not adversely affected;
- the form, size, scale, mass, materials and architectural detailing of the development is in keeping with its locality;
- the development would not cause undue loss of residential privacy, outlook and amenities as enjoyed by occupants of existing dwellings in the vicinity; and,
- satisfactory access and parking provision can be made available.

Policy C12: relates to replacement dwellings and states that permission will not be granted for a replacement dwelling in the open countryside unless the replacement would be of similar size, scale, in close proximity to the existing and in character with its surroundings. It also states that the dwelling should have a lawful use and capable of habitation.

**Melton LDF Core Strategy**: seeks to focus development in Melton Mowbray with a small balance (20%) in the surrounding Borough, with expectations to produce mixed, integrated housing developments and meet local needs by addressing identified imbalances in housing stock in all locations.

**Consultations:-**

<b>Consultation reply</b>	<b>Assessment of Head of Regulatory Services</b>
<p><b>Highways Authority</b> - No objections to the creation of a permanent access subject to conditions.</p> <p>Currently there is an existing vehicular/field access adjacent to the property that appears to have been used in the past to serve the dwelling. This access has very restricted visibility splays to the south due to the hedge and trees on the highway boundary. At a site meeting, it was agreed that within the land edged red on the submitted plan and the land edged blue within the applicants control, it would be possible to realign the hedges and remove any trees, and achieve an acceptable visibility splay. However it has to be noted that in order to achieve the visibility splay there is a mature Ash tree that would almost certainly have to be felled along with a few other much smaller self set trees/bushes.</p> <p>On the understanding that the applicant owns the land to achieve the required splays, and on the basis that the application is an outline with all matters reserved, a more favourably view can be taken and recommend conditional approval, subject to details being submitted to and approved showing an appropriate visibility splay before development commences.</p>	<p>The application is for outline planning permission with all matters reserved however the indicative access has been included in the application site and therefore it is considered that access should be included in the assessment as an informative to the proposal.</p> <p>Currently there is no vehicular access to the dwelling although there appears to have been an access to the north of the dwelling as shown on Ordnance survey maps. On site there is a single sectional garage with the garage doors facing out towards the field access. Parking of vehicles currently takes place on the highway verge abutting the A606. There is an existing access to a bridle way and it is proposed to utilise this access with modifications. The Rights of Way Officer has been consulted and supports any improvement to the current access.</p> <p>In order to provide adequate visibility splays the agricultural hedge needs to be realigned and a trees removed from the boundary. With this visibility splay provided, this access would provide suitable parking and turning. It is considered that this would be an improvement on what occurs at present, which is parking on the grass verge. Conditions can be imposed to request an access plan for the site detailing the visibility splays. It is not therefore necessary to consider the hedge re-</p>

	alignment or removal of trees at this outline stage. Noted.
<p><b>LCC Rights of Way Officer:</b> - No objections.</p> <p>The access to the cottages is via a public right of way which has recently been reclassified as restricted byway, D106. This means that non-motorised traffic have a right to use the route i.e. horse riders, carriage drivers, cyclists and walkers.</p> <p>Renewed use of the route by private traffic to a single dwelling will not have a significant detrimental effect on the public use. Indeed any access improvements required for this development can only improve the public access</p>	
<p><b>Housing Policy Officer</b> - There is no objection to the proposal as it is stated in the design and access statement that the replacement dwelling will be of similar floor area to the existing; however, due to a lack of information concerning the existing and proposed dwellings the application cannot be supported. As this application is outline a condition could be sought to ensure that the type of dwelling granted permission on this site has regard to local housing market requirements and it is recommended that the applicant seek advice from the Council prior to submitting any detailed planning approval. A requirement for Lifetime Homes Standards to be included should also be considered.</p>	<p>The former cottages consisted of two bedrooms and were knocked through to create a single four bedroom dwelling in the 1980's. Planning permission was not required. The application is for a replacement dwelling which will utilise modern construction methods and will have to comply with current Building Regulations. Lifetime Homes seek to ensure that dwellings area accessible to all and adaptable in the future and seeks parking provision within the site close to the dwelling for ease of access.</p> <p>If the vehicular access is deemed not acceptable any proposed development could not comply with Lifetime Homes.</p>
<p><b>Ecology</b> – The application to demolish the house should be supported with a Protected Species Survey.</p>	<p>The application is for outline planning permission and a condition can be imposed to request a survey with the submission of the Reserved Matters. The property could be demolished without requiring planning permission and therefore it is unreasonable to request the information at this stage.</p>
<p><b>Leicestershire Archaeology</b> – No objections</p>	Noted.

### Representations:

A site notice was posted and neighbouring properties consulted. As a result 2 letters have been received, objecting to the proposal on the following grounds:-

Representation	Assessment of Head of Regulatory Services
<p><b>Burton and Dalby Parish Council</b> – Strongly object to the creation of a vehicular access</p> <p>The Parish Council are most concerned about the proposal to introduce a vehicle access on a bend on the A606 at a point which they consider to be extremely dangerous. There is <u>NO</u> existing access, purely a field gate accessing restricted bridleway D106.</p>	<p>The application is for outline planning permission for a replacement dwelling but has included an indicative plan showing access arrangements spurring off from an existing gated bridle way. Leicestershire County Council Rights of Way officer has been consulted and does not object to the use of the access and welcomes modification which would benefit users of the bridle way. The Highways Authority has been consulted and have stated that if there was not already a house on the</p>

<p>Were vehicle access to the property to be permitted then vehicles using such an access could potentially be in considerable danger from all vehicles travelling along the A606 in the Melton Mowbray direction. This road is used by a large numbers of HGVs and other heavy commercial traffic, as well as cars, many of which do not observe the speed limit. The above facts are supported in evidence from monitoring by Leicestershire County Council and a recent Community Speed Watch initiative. Vehicle volumes average 10 to 12,000 vehicles per day. Significantly the only fatal accident in recent years between Burton Lazars and Melton Mowbray has occurred on this bend.</p>	<p>site they would certainly be seeking to resist the development on the grounds of highway safety. However given that there is a house on the site at present they have to look at the proposal a little more sympathetically. In the view of the Highways Officer stated that whether or not there is an access serving the property, it is likely that the volume of traffic generated by the dwelling would not materially change. The Officer has met the applicant on site to see whether or not it would be possible to provide an access that can at least provide acceptable levels of visibility and where vehicles can at least enter and leave in a forward direction. If this can be achieved the Officer would consider that it would at least provide an element of highway gain and preferable to having a replacement dwelling which continues to result in parking and turning within the highway. If approved conditions are required to ensure that appropriate visibility splays can be provided.</p>
<p>Furthermore were such an access permitted it would be outside the curtilage of the property quoted and therefore be across open farmland.</p>	<p>The indicative access plan shows that the access would be outside of the defined curtilage for the dwelling, crossing over a small paddock area. At present there is a single detached garage facing out to the site and the Ordnance survey maps show a dotted line of a track leading to this building. The track has now grassed over due to infrequent use. In determining the application an assessment has to be made against what impact this access drive for domestic use will have on the open countryside. It is considered that the extension of minor residential use will be for the purpose of safely gaining access to the site and will not incorporate additional domestic paraphernalia, therefore not having an adverse impact upon the countryside setting. Providing adequate visibility splays can be provided, which would possibly lead to the re-alignment of the agricultural hedge and removal of two unprotected trees, there would be an element of highway gain. It is considered that the access will not have a detrimental impact upon the open countryside due to the reasons stated above and is considered that there are material considerations present which would warrant a departure from Policy OS2 in this instance.</p>
<p>In addition the existing cottage has significant local history and the merits of its retention should be checked out very carefully before any decision is made; once gone it is lost forever.</p>	<p>The existing dwelling is not listed and sits on its own, surrounded by open countryside. Consent is not required for the demolition of the dwelling as there is no Conservation Area. The Conservation Officer has visited the site to assess if the building could be considered as a Heritage Asset as advised in PPS5, which seeks to retain buildings of local importance. Under the terms of PPS5 it is considered that the cottages must be considered a</p>

	<p>heritage asset given that they were constructed possibly at the turn of the last century (c 1900) and were clearly of quality design as witnessed by the chamfered stone window heads, stone cills and chamfered brick window and door jambs, but the dwelling is considered to be of <u>limited</u> significance in terms of PPS5. In that regards it is highly unlikely that any request for Listing would be received favourably and as things stand the Council could not stop the dwelling from being demolished.</p>
<p><b>Impact upon Highway Safety:</b></p> <ul style="list-style-type: none"> <li>• The cottages are adjacent a very busy road and dangerous bend. 33 years ago there was three accidents one being a fatality.</li> <li>• There used to be a lay by outside the cottages and this was removed and replaced by high kerbing with flat kerbs at the gated entrance. This high kerbing makes it difficult to negotiate entrance from both directions.</li> <li>• The access serves a restricted bridle way which gives access for farm vehicles only.</li> <li>• The verge is used for the parking of HGV's</li> <li>• The 1<sup>st</sup> outline application was recommended for refusal by the Highways Officer as the access was considered to be so dangerous whether it served 1 dwelling or 10.</li> </ul>	<p>The cottages are sited along the A606 which is a classified road. The Highways Authority have been consulted and subject to adequate visibility splays being provide they would consider the proposal as an improvement on the original arrangement which is to park the cars on the grass verge adjacent the highways, where the high kerbing denotes the highway.</p> <p>The first proposal was recommended for refusal by the Highways Officer as the existing access was considered to be substandard with inadequate visibility. The application is for outline planning permission with all matters reserved however further advise was sought by the applicants from the Highways Authority to establish if a satisfactory proposal could be achieved to provide parking within the site. Subject to the submission of plans showing how the desired visibility splays could be provided, this issue could be addressed. A condition can require full details with a reserved matters application.</p>
<p><b>Character of the area:</b></p> <ul style="list-style-type: none"> <li>• The proposed entrance and driveway are not within the curtilage of the cottages.</li> <li>• The curtilage of the cottages has been extended to incorporate part of the 3 acre paddock to make it worth more.</li> </ul>	<p>The application site accompanying this application denotes the application site in red which includes the curtilage of the existing cottages and a track leading to an existing access serving the bridal way. It does not include the 3 acre paddock, which is also in the ownership of the applicant. If there was an intention to extend the curtilage of the cottages then a 'change of use' application for the land would be required and it would need to be assessed on the merits of the application as presented. It does not form part of this application and therefore is not a consideration at this time.</p>
<p><b>Other Matters raised:</b></p> <ul style="list-style-type: none"> <li>• The cottage is subject to a court order which prevents the applicants from selling on the dwelling.</li> <li>• Sitting tenant interested in buying the dwelling and original curtilage not the 3 acre paddock which could be sold to</li> </ul>	<p>The matters raised are not ones for consideration of this outline planning application and remain as civil issues which can not be taken into account in determining this application.</p>

<p>someone else.</p> <ul style="list-style-type: none"> <li>• Civil rights as sitting tenant.</li> <li>• Burton and Dalby Parish Council were not informed of the Outline planning application.</li> </ul>	<p>The application site does not fall within the boundary of the Burton and Dalby Parish and therefore consultations were not required. However the Parish Council has made representation and the Parish Council were informed of the amended proposal and was invited to comment. The comments raised have been addressed above.</p>
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**Other considerations not raised through representation.**

<b>Representation</b>	<b>Assessment of Head of Regulatory Services</b>
<p><b>Application of Development Plan and other planning policy.</b></p> <p>Policy OS2 carries a general presumption against development outside town and village envelopes except in certain instances such as development essential for agriculture and forestry, small scale employment, tourism and recreation development.</p> <p>Policy C12 relates to replacement dwellings and states that permission will not be granted for a replacement dwelling in the open countryside unless the replacement would be of similar size, scale, in close proximity to the existing and in character with its surroundings.</p> <p>PPS7 seeks to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all.</p>	<p>The application site lies wholly within open countryside designation and therefore policy OS2 is applicable. If a proposal for development within the countryside is acceptable in principle it will also be considered against more detailed criteria contained in other policies of the plan which relate specifically to the activity. In the case of this outline application for a replacement dwelling is required to satisfy the criteria contained in policy C12.</p> <p>The application proposes to replace the existing dwelling with a modern dwelling on the same footprint. As the application is for outline planning permission with all matters reserved details of the design, scale and appearance have not been submitted and will therefore be assessed at the Reserved Matters application. It is considered that in principle a replacement dwelling would be acceptable subject to details relating to design, appearance, satisfactory access and parking.</p> <p>The indicative access plans includes a strip of agricultural land which would be required to provide an access road to the site to allow for the parking of vehicles. An assessment will be required as to what, if any, this small amount of development would have on the character of the open countryside, taking into account the previous histories for the site and weighed against the benefits of providing a safe vehicular access for use by occupants and uses of the bridle way.</p> <p>It has also been reported that the highways authority would require the existing agricultural hedge be re-aligned to provide adequate visibility splays from the site. It is not known by how much at this stage and conditions have been requested for the applicants to submit detailed plans with the submission of a Reserved Matters application. The hedge has not been assessed in detail, nor has Natural England been asked to comment. The trees on the boundary have been inspected by MBC Conservation Officer who has concluded that one of</p>

	the trees is a self set sapling and the other Ash tree is of no particular merit and has telecommunication lines interfering with the branches. It is highly unlikely that either tree is worthy of a Tree Preservation Order at this time.
<b>Impact upon neighbouring properties -</b>	The dwelling would be situated within open countryside. As the application is for outline planning permission; seeking permission for the principle of development; no details relating to scale and mass have been received. However under the provisions of C12 the dwelling will be required to be of similar footprint to the dwelling to be replaced. It is therefore considered that due to the location there will be no impact upon residential amenities of any neighbouring property.

### **Conclusion**

The application seeks outline consent for a replacement dwelling with all matters reserved. It is considered that the principle for a replacement dwelling is acceptable and supported by the development plan policies. However further assessment will be required with the submission of the reserved matters application in relation to the access for the site and whether it is considered to have a negative impact upon the character of the area. The creation of an access in the open countryside for the purpose of domestic use is not supported under the provisions of policy OS2 and therefore the application would represent a departure to the local plan policy. Consideration has been given to the indicative plan and on reflection it is considered that there would be benefits to the safety of highway users if on site parking can be provided and this would be a material consideration to warrant a departure from the development plan. Accordingly this outline application is recommended for approval subject to satisfactory vehicular access being provided.

### **RECOMMENDATION:- Permit subject to conditions:-**

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development to which this permission relates shall begin not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
2. No development shall commence on the site until approval of the details of the "layout, scale, external appearance of the building(s), access and the landscaping of the site" (hereinafter called "the reserved matters") has been obtained from the Local Planning Authority.
3. No development shall start on site until representative samples of the materials to be used in the construction of all external surfaces have been submitted to and agreed in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. No development shall start on site until a landscape scheme has been submitted to and approved in writing by the Local Planning Authority. This scheme shall indicate full details of the treatment proposed for all hard and soft ground surfaces and boundaries together with the species and materials proposed, their disposition and existing and finished levels or contours. The scheme shall also indicate and specify all existing trees and hedgerows on the land which shall be retained in their entirety, unless otherwise agreed in writing by the Local Planning Authority, together with measures for their protection in the course of development.
5. The approved landscape scheme (both hard and soft) shall be carried out before the occupation of the buildings or the completion of the development, whichever is the sooner; unless otherwise agreed in writing by the Local Planning Authority. Any trees or plants which within a period of 5

years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

6. Notwithstanding the provisions of Parts 1 and 2, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking and re-enacting that Order) the dwelling shall not be extended or altered, nor shall any incidental building, structure or enclosure be erected within the paddock area outside of the domestic curtilage as shown on the site location plan as amended on the 20th May 2010.
7. The Applicant and contractors/workers on site should be aware of the possibility of protected species and should keep a strict watching brief. If a protected species is discovered in the course of the operations the relevant work should stop immediately, Natural England notified and further advise sought for recommended action. Failure to comply with this may result in a criminal prosecution.)
8. No development shall commence on site until such time as a visibility splay of 2.4 metres by 160 metres or the maximum that can be achieved within land shown edged red and edged blue on the submitted site location plan under the applicants control, has been provided out of the existing field access to the north of the site, in accordance with details that shall first have been submitted to and approved by the Local Planning Authority in consultation with the Highways Authority. Once this visibility splay has been provided it shall thereafter be permanently so maintained.
9. The proposed replacement dwelling shall not be occupied until such time as the existing vehicular access has been improved to provide increased width, suitable entry and exit radii, hard bound surfacing and drainage, all in accordance with a scheme that shall first have been submitted to and approved by the Local Planning Authority in consultation with the Highways Authority. Once provided the access shall thereafter be permanently so maintained.
10. The proposed replacement dwelling shall not be occupied until such time as parking and turning facilities have been provided, hard surfaced and made available for use to serve the dwelling in accordance with a scheme that shall first have been submitted to and approved by the Local Planning Authority before development commences. Once provided these facilities shall thereafter be permanently so maintained.

The reasons for the conditions are:-

1. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.
2. The application is in outline only.
3. To enable the Local Planning Authority to retain control over the external appearance as no details have been submitted.
4. To ensure satisfactory landscaping is provided within a reasonable period.
5. To provide a reasonable period for the replacement of any planting
6. To enable the Local Planning Authority to retain control over future extensions in view of the form and density of the development proposed.
7. To preserve protected species.

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

**Officer to contact: Mrs Denise Knipe**

**8th July 2010**