

LAND TO THE NORTH OF BLACKWELL LANE, MELBOURNE: APPLICATION REF. 9/2014/1013

REPRESENTATION BY MELBOURNE CIVIC SOCIETY

Outline planning permission is sought for the construction of an estate access road, the erection of 54 houses, the relocation of allotments within a walled garden and the construction of a surface water balancing reservoir.

Melbourne Civic Society has nearly 200 members, and seeks both to preserve and enhance the historic character of the village and its environment. Some of our members live close to the historic core and have known the application site and its recent history from childhood, and the following report and recommendations incorporates this local knowledge.

THE APPLICATION SITE

The western half of the site is a raised terrace of fertile market garden land, and is currently in use as a small market garden and as allotments by local people, and the land produces fine crops of fruit, vegetables and flowers. These uses are a valuable part of the local economy and, so far as the allotments are concerned, support the incomes of retired market gardeners and other retirees.

The eastern half of the site is at a lower level and is currently in arable cultivation, but its history is very relevant to the merits of the application. This field was, historically, a meadow alongside Carr Brook on its eastern boundary. It was ploughed for food production during the Second World War. After the war the Melbourne Estate laid out the site as a football pitch for use by local football teams, but this use was quickly abandoned when it was found that the pitch was frequently waterlogged and unplayable during winter months. Football pitches were subsequently laid out on the recreation ground on Cockshut Lane. The whole of this field is in the Carr Brook flood plain. Three times within the living memories of Civic Society members it has been wholly inundated by floodwater to a depth of several feet. On the worst occasion, a flash flood in the catchment caused Carr Brook to overtop the parapet walls on Blackwell Lane Bridge and the road to Wilson was impassable for several days. A flood of this severity has not recurred since the construction of the Staunton Harold reservoir in the Carr Brook catchment although the whole site was inundated to a shallow depth 20 years ago. Staunton Harold reservoir acts as a sort of balancing reservoir, but this is only effective when the reservoir is less than full. If a flash flood were to occur when the reservoir is full it would overflow into Carr Brook and inundate the whole of the lower field, as it has done in the past. Indeed, this situation is likely to recur. After two wet years and copious rainfall in the past few weeks the reservoir is near capacity, and 14mm of rain fell during the night of the 16th and 17th November 2014 - only one week ago - and as a consequence Carr Brook rose to within 6 inches of the top of its banks, and at 8.30am on November 17th there was standing surface water on the north-eastern quadrant of the field where the relocated allotments are proposed. At 1.30pm on the same day there was still surface water on part of the proposed allotment site. The Met Office has advised - and the government has accepted this advice - that climate change will probably increase winter rainfall in the UK, and this will increase the risk of flooding in the Carr Brook catchment. **No development whatsoever should take place on this half of the site.**

The relocation of the allotment gardens into the Carr Brook flood plain is impracticable. The site, if not actually flooded, is frequently waterlogged in winter months: indeed, it is currently (November

25th 2014) waterlogged. Allotmenters dig their allotments during the winter months and harvest winter crops such as sprouts, parsnips and leeks which are left in the grounds after the previous growing season. It is current practice on all allotments to plant *aqua dulce* broad beans, garlic and early peas in November when the ground is still warm to produce the first crops in Spring. None of these essential allotment activities would be practicable on the proposed allotment site, and some of its members have told us that they will not relocate in to the proposed site and are currently seeking vacant plots on the Hilly Fields Allotment Association site on the other side of the village. Others, who live locally, have indicated that they would give up entirely. This information has, we are told, been passed to the Melbourne Estate office, but has not been taken into account in the planning application.

PLANNING APPRAISAL

DEVELOPMENT PLAN

This application is unacceptable in planning policy terms. The site is not allocated for development in the approved Local Plan and is not allocated for development in Part 1 of the emerging Local Plan which has been approved by the Local Planning Authority and is currently the subject of an examination in public by the Planning Inspectorate. In part 2 of the emerging Local Plan the authority will allocate land for an additional 600 dwellings in all the key service villages identified in part 1. Melbourne is a key service village, but 150 houses have already been built or are under construction and, following the grant of planning permission for 22 houses on Station Road and 66 houses at Pack Horse Lane, planning permissions already exist for another 88 dwellings making a grand total of 238 new dwellings within the plan period (2008-2028). This number is already putting great strain on the village's drainage and internal transport infrastructure, will increase traffic congestion and put at risk the transport link to jobs and services in Derby across the Swarkestone Causeway Ancient Monument, and will increase overcrowding at the village's primary schools and particularly at Chellaston Academy secondary school. The latter is not capable of expansion on its existing site, and the secondary education of existing and future Melbourne pupils is therefore at risk.

The Society considers that Melbourne's character as one of the district's sustainable communities and the quality of its historic and residential environments are both already at risk, and that this village has already met more than its fair share of the new dwellings required by 2028 in the District as a whole. Indeed, permission on this site would pre-empt any possible allocations elsewhere in the village in a part 2 local plan which will take the form of a Neighbourhood Development Plan which the Parish Council has resolved to prepare in 2015 in accordance with the provisions of the government's Localism Act.

The government has indicated that applications which would conflict with emerging Local Plan policies and might prejudice their proper consideration can be refused on prematurity grounds. This advice is spelled out in paragraph 14 of the National Planning Policy Framework (NPPF). NPPF Annex 1 explains the weight to be given to policies in emerging local plans and states that refusal of permission would not be justified where the draft Local Plan has not been submitted for examination. That situation does not apply in South Derbyshire where the examination takes place this week and the preparation of a Neighbourhood Plan has commenced. Approval of this application would clearly prejudice the plan-making process and be contrary to government policy

which clearly sets down that planning decisions must be determined in accordance with the development plan unless material considerations indicate otherwise (NPPF policy para. 196 refers). No such other considerations apply in this instance.

Indeed the Minister, Brandon Lewis MP, Minister of State for Housing and Planning, in his letter to the local member of Parliament for South Derbyshire Mrs Heather Wheeler MP dated 27th October 2014, has clarified this point by saying, notwithstanding the presumption in favour of sustainable development and where a five-year supply of land available for development is not available, *“...permission should not be granted where the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicated that development should be restricted.*

Furthermore, the National Planning Policy Framework ensures that planning recognises the intrinsic character and beauty of the countryside, takes account of the different characters of different areas and asks that all development is supported by appropriate infrastructure. But it also goes further in setting out that emerging plans may carry some weight in decision-taking before they are formally adopted Our guidance sets out where there may be grounds to refuse permission where an application is premature with reference to an emerging Local Plan.”

It is the Society’s formal submission that, in this particular instance, permission can and should be refused on prematurity grounds.

In addition, there are sound grounds for refusal of permission because the application fails other key tests of acceptability and is in conflict with other NPPF policies. These are:

CONSERVATION AND HERITAGE

Paragraph 129 of the NPPF states, in the section dealing with conserving and enhancing the historic environment, “Local Planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal.”

South Derbyshire District Council has appraised all its Conservation Areas and, after consultation with local communities, has published Heritage Appraisals. The application site is within the Melbourne Conservation Area and, in respect of this part of the Conservation Area, its Heritage Appraisal states:

“Blackwell Lane has changed little as historic photographs from the late 19th century show quite clearly.”

“From the east, Melbourne is approached via Wilson, which falls just within Leicestershire. The land falls away gradually down towards the Blackwell brook, and Blackwell Lane passes over a small arched bridge. Between the wooded sides of the road, which are partly formed by the parkland belonging to Melbourne Hall, the land opens out to the north with long views across the unfenced field towards Castle Street. To the south, the walls of Melbourne Hall gardens form an impressive

backdrop and sweep around the bend leading the visitor into the town. Picturesque views unfold of the cottages on the north side of the street.”

“There are few significant views from the outlying parts of the town approaching Melbourne. *Perhaps the most significant view in approaching Melbourne is that from the east, from the eastern slope of Blackwell Brook. The view looking north-west across the open expanse of the cornfield and allotments (once known as Castle Orchard) towards the old site of the castle (a scheduled ancient monument), is perhaps the only place where the strategic importance and status of the castle in the history of Melbourne can be appreciated.* Looking in the other direction along Blackwell Lane, there is an equally important view out of the conservation area.”

The application site is thus a designated heritage asset, and para.133 of the NPPF states:

“Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.” Certain exceptions are then identified, none of which apply in this case.

The application agent dismisses this heritage asset with the words (brochure page 14) “Views across the site towards the village are considered less important than the ‘open’ greenspace setting immediately adjacent to Blackwell Lane, contrasting with the high stone wall enclosure.” This statement is the agent’s opinion: it is not supported by any evidence and is contradicted by the Council’s own heritage appraisal. The agent further states on page 17 that “...it is considered that both the Archaeology and Landscape studies provide a thorough analysis of the identified heritage assets and confirm that there will be no impact resultant of new development.” THE STUDIES SHOW NO SUCH THING. They are superficial and matters of opinion, and should be ignored by the local planning authority in arriving at its decision. The erection of a speculative housing estate, access road, 6 foot high brick walls around a badly relocated allotment site, and a balancing reservoir on the application site will cause demonstrable harm to one of the key heritage assets within the Melbourne Conservation Area and thus be contrary to government policy as set out in the NPPF paras 129-133. Also, planning case law requires development within a conservation area to enhance the character of that area, otherwise the development is unlawful. Any approval in this instance would be unlawful.

FLOODING

In respect to the applicant’s drainage submission, the technical analysis and mitigation measures are fundamentally flawed. We have conclusively demonstrated that the eastern half of the site has flooded and is potentially likely to flood again. The application’s agent has submitted a flood risk assessment which is clearly defective, is not based on local knowledge, and may have been derived from a desk assessment without a site visit. In the National Planning Policy Framework section 10 contains the following paragraph of special relevance:

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

During the preparation of the draft Local Plan the only potential development site in Melbourne likely to be affected by flooding was the eastern half of the application site, and this site as a whole was rejected when the draft plan was finalised and submitted to the Planning Inspectorate. Furthermore, the measures proposed to deal with surface water run-off from the new housing development would exacerbate the flood risk. A balancing reservoir is proposed in the south-east corner of the site close to the public highway. Balancing reservoirs are built to store surface water during flash floods caused by heavy localised rainfall so that the water does NOT add to flooding in watercourses and flood plains. Such balancing ponds thus have to be located above known flood levels, otherwise they do not work. In this planning application the balancing pond is apparently located in order to provide an open feature in the landscape, but on Health and Safety grounds it would have to be shielded by a barrier to prevent cars being trapped if they are forced by flood water off the carriageway – which would ruin the landscaped open view. This proposal is a defective solution to a potential problem. Were the application to be approved in outline the balancing reservoir would have to be located within the housing development on the raised terrace on what is now the allotment site, thus reducing the number of houses to be built. This application is not a competent submission, and is not sustainable in regard to its drainage arrangements.

Furthermore, the eastern half of the site is understood to be lower than the sewage disposal site to the north-east on the opposite side of Carr Brook, probably necessitating a foul sewage pumping system to serve the new housing development. This would add to the flooding risks and potentially jeopardise public health in the event of a serious flash flood on the application site.

AGRICULTURAL LAND

The NPPF requires local planning authorities to safeguard good quality agricultural land. Paragraph 109 states: “The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils”, and “Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land...”, and goes on to suggest that, where there is a choice of development sites, land of poorer quality should be used in preference (para 112 refers).

The western half of the proposed development site is, in a local context, the sort of land which should be kept for food production because of its inherent fertility by comparison with other potential sites within the parish boundary.

On this respect, in a local context, the development of the western half of the site would be contrary to government policy as set out in section 11 of the National Planning Policy Framework.

CONCLUSION

Melbourne Civic Society OBJECTS to the planning application for the Blackwell Lane site, as set out plans reference 9/2014/1013, on the grounds that the development

- is contrary to the saved policies in the adopted Local Plan
- is contrary to the policies contained in part 1 of the draft Local Plan
- is premature and likely to prejudice the lawful planning process in which a submitted draft Local Plan is currently under consideration by the Planning Inspectorate

- will prejudice part 2 of the Local Plan which, for Melbourne, is likely to take the form of a Neighbourhood Development Plan prepared by the Parish Council under the provisions of the Localism Act – a process already agreed by the Parish Council and notified in writing to the local planning authority
- is far in excess of the number of new dwellings necessary to meet the part 2 requirements for new dwellings in key service villages identified in part 1 of the draft Local Plan
- is likely adversely to affect community, education and traffic conditions in the existing village and detract from the physical and social environments which make Melbourne such an attractive place to live and work
- is contrary to long-established planning policies, supported by the Parish Council and local amenity groups, which have helped to preserve the heritage of Melbourne since the passing of the Town and Country Planning Act in 1947
- will adversely affect identified heritage assets within the Melbourne Conservation Area and is therefore contrary to paragraphs 129-133 in the NPPF
- will adversely affect the setting of the historic cottages on Blackwell Lane
- will involve development within the Carr Brook flood plain which will add to flooding and public health risks both within and outwith the site, and the proposed surface water balancing reservoir within the flood plain is a wholly unacceptable mitigation measure to deal with surface water run-off from the proposed housing development. In this respect the proposals are both defective and contrary to NPPF policies (para. 100 refers)
- the relocation of the allotment gardens in the Carr Brook floodplain is impracticable because the gardens would be uncultivable, and the walls would detract from the established heritage asset view and would impede the flow of surface water during periods of flooding
- will involve the loss of good quality market garden land and will deprive existing allotment holders of the economic and health benefits of growing their own food. This is contrary to NPPF policies 109 and 112, and section 11 as a whole.

The Society further submits that the applicants cannot take advantage of those policies in the NPPF which seek to encourage sustainable development or which require a five-year supply of land for new housing development because there are good – indeed overriding – additional planning grounds for refusal. The proposal is not sustainable, and the technical supporting documentation is seriously flawed in respect to its heritage and flooding analysis.

Furthermore, contrary to the indication given on page 26 of the supporting documentation, there was no consultation with Melbourne Civic Society either by the landowner or the agent prior to the submission of the application, and the Statement of Community Involvement is thus untrue.

Permission should be **REFUSED** for all the reasons given.