

ASHFIELD DISTRICT COUNCIL



Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Planning Committee

Date: **Wednesday, 22nd July, 2020**

Time: **10.00 am**

Venue: **[Ashfield District Council's YouTube Channel](#)**

For any further information please contact:

Lynn Cain

l.cain@ashfield.gov.uk

01623 457317

PLANNING COMMITTEE

Membership

Chairman: Councillor Sarah Madigan

Vice-Chairman: Councillor Ciaran Brown

Councillors:

Chris Baron

Arnie Hankin

Lauren Mitchell

Helen-Ann Smith

Jason Zadrozny

Samantha Deakin

Rachel Madden

John Smallridge

Daniel Williamson

FILMING/AUDIO RECORDING NOTICE

This meeting may be subject to filming or audio recording. If you have any queries regarding this, please contact Members' Services on 01623 457317.

SUMMONS

You are hereby requested to attend a meeting of the Planning Committee to be held at the time mentioned above for the purpose of transacting the business set out below.



Carol Cooper-Smith
Chief Executive

AGENDA

Page

1. To receive apologies for absence, if any.
2. Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests.
3. To receive and approve as a correct record the minutes of a meeting of the Committee held on 17 June 2020. 5 - 8
4. To receive and consider the attached planning applications. 9 - 52
5. Tree Preservation Order - Covered Reservoir, Adjacent to 44 Whyburn Lane, Hucknall. 53 - 58

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PLANNING COMMITTEE

Meeting held on Wednesday, 17th June, 2020 at 10.00 am

Present: Councillor Sarah Madigan in the Chair;

Councillors Chris Baron, Ciaran Brown, Andrew Harding (as substitute for Samantha Deakin), Tom Hollis, Rachel Madden, Lauren Mitchell, John Smallridge, Helen-Ann Smith, Daniel Williamson and Jason Zadrozny.

Apology for Absence: Councillor Samantha Deakin.

Officers Present: Ross Bowskill, Lynn Cain, Louise Ellis, Mike Joy, Theresa Hodgkinson, Darowen Jones, Christine Sarris, Andy Slate and Robbie Steel.

P.4 Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests.

1. Councillor Jason Zadrozny declared a Non Disclosable Pecuniary/Other Interest, on behalf of all Ashfield Independent Members present at the meeting, in respect of Application V/2020/0201, Ashfield District Council, New Leisure Centre and Associated Infrastructure, Festival Hall, Hodgkinson Road, Kirkby in Ashfield. All Members involved (particularly the Cabinet Members) had made decisions based on the wider facility mix and the procurement of the leisure contract but at no point had expressed an opinion in relation to the detailed designs of the development as detailed within the application.
2. Councillor Tom Hollis declared a Non Disclosable Pecuniary/Other Interest in respect of Application V/2020/0069, Mr T. Porter, Dwelling and Garage, Land Adjacent the Old Granary, Newbound Lane, Norwood. His interest arose from the fact that he had previously met and spoken to both the applicant and objectors but in doing so had not expressed an opinion at any point.

P.5 Minutes

RESOLVED

that the minutes of the meeting of the Planning Committee held on 13 May 2020, be received and approved as a correct record, subject to Application V/V/2019/0825, showing Mr. Vaughan Gallagher as speaking on behalf of the Applicant rather than as an Objector (stated in error.)

P.6 Town and Country Planning Act 1990: Town Planning Applications Requiring Decisions

1. V/2020/0201, Ashfield District Council, New Leisure Centre and Associated Infrastructure, Festival Hall, Hodgkinson Road. Kirkby in Ashfield

In accordance with Council Procedure Rule 30.1, Councillor Jason Zadrozny moved suspension of Council Procedure Rule 16.4, (Content and Length of Speeches) for this application only, to allow all speakers up to 15 minutes to address the Committee, rather than the usual 5 minutes. Having been seconded by Councillor Helen-Ann Smith, the motion was duly carried.

The meeting was adjourned at 10.16am and reconvened at 10.17am.

On behalf of the Applicant, Theresa Hodgkinson (Director of Place and Communities) took the opportunity to address the Committee in respect of this matter and Members were offered the opportunity to clarify any points raised during the submissions as required.

It was moved and seconded that conditional consent be granted as per officer's recommendation.

The meeting was adjourned at 11.19am and reconvened at 11.30am.

2. V/2020/0069, Mr T. Porter, Dwelling and Garage, Land Adjacent the Old Granary, Newbound Lane, Norwood

It was moved by Councillor Jason Zadrozny and seconded by Councillor Ciaran Brown that the officer's recommendation contained within the report be rejected and:

a) planning consent be granted subject to the following conditions:

1. The development hereby approved shall be begun before the expiration of 3 years from the date of this permission.
2. This permission shall be read in accordance with the following plans: Site Location Plan Scale 1:2500, Received 21/02/20; Site Layout Plan, Drawing No. 14326.02, Received 14/02/20; Proposed Elevations & Floor Plans, Drawing No. 14326.01 Rev A, Received 02/07/20. The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.
3. The materials and finishes to be used for the external elevations and roof of the proposal shall match those detailed in the submitted application form.

4. Notwithstanding the approved plans, the dwelling shall not be occupied until full details of all hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the dwelling. Any trees, or plants, which within a period of five 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 other of a similar size and species.
5. Notwithstanding the approved plans, the dwelling shall not be occupied until full details of the sites boundaries treatments have been submitted to and agreed in writing by the Local Planning Authority. The boundary treatments shall thereafter be implemented in accordance with the agreed details and within an agreed time frame.
6. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The surface water drainage scheme shall include sustainable drainage principles and be implemented in accordance with the approved details before the development is first brought into use.

b) the Assistant Director, Planning and Regulatory Services be requested to liaise with the Applicant in relation to suggested changes to the front facing window design of the bungalow and delegated authority be granted to the Committee Chairman to approve any such design amendments as required.

Reasons for rejecting officers' recommendation:

1. The proposal would be congruous with the existing pattern of development along Norwood Lane, as it would create an additional dwelling onto the end of a row of existing properties. It would not have a harmful impact on heritage assets in the vicinity of the development, including the Grade II Norwood Lodge and Grade I Registered Park and Garden of Hardwick Hall. In particular the closest area of Grade I Registered Park and Garden is grazing land at this point, with the Hardwick Hall's main gardens some distance away. In addition, Norwood Lane is a lightly trafficked street and the proposal does not act as a main approach to Hardwick Hall.
2. The principle of development is considered to be acceptable and it would be compliant with National Planning Policy Framework and Ashfield Local Plan Review (2002), in particular Policies ST1, EV2 and HG5. It would also be compliant with the Teversal, Stanton Hill & Skegby Neighbourhood Plan 2016 – 2031 aims of encouraging sustainable development and supporting rural communities.

For the motion:

Councillors Ciaran Brown, Andrew Harding, Tom Hollis, Rachel Madden, Lauren Mitchell, Sarah Madigan, John Smallridge, Daniel Williamson and Jason Zadrozny.

Against the motion:
Councillor Chris Baron and Helen-Ann Smith.

Abstention:
None.

P.7 Planning Appeal Decisions

Members were asked to note the recent Planning Appeal decisions as outlined in the report.

RESOLVED
that the report be received and noted.

The meeting closed at 12.26 pm

Chairman.

BACKGROUND PAPERS AND AVAILABILITY OF PLANS

Under the terms of the Local Government (Access to Information) Act 1985 the Authority is required to list the background papers used in preparing all recommendations relating to planning applications.

The background papers forming the planning application file include:

- A Planning Application file, incorporating consultation records, site appraisal and records of meetings and telephone conversations.
- B Planning Policy
- C Local Resident Comments
- D Highway Authority Consultation
- E Environmental Health (ADC)
- F Severn Trent Water plc/Environment Agency
- G Parish Council
- H Local Societies
- I Government Circulars/PPGs
- J Listed Building Consultees
- K Other

Letters received prior to preparation of the Agenda are summarised to indicate the main points and incorporated in the Report to the Members. Any comments received after that date, but before 3pm of the day before Committee, will be reported verbally.

The full text of all correspondence is available to Members.

Due to Covid-19 Background Papers are only available to view online.

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Site Visits Planning Committee

Members will be aware of the procedure regarding Site Visits as outlined in the Councils Constitution.

Should any Planning Committee Member wish to visit any site on this agenda they are advised to contact either the Director – Place and Communities or the Corporate Manager by 5pm 16th July 2020.

This can be done by either telephone or e-mail and should include the reason as to the request for the site visit. The necessary arrangements will then be made to obtain access to the site or an objector's property, if such is required.

Members are asked to use their own means of transport and **observe social distancing guidance** and those Members attending site visits should meet at the sites at 10am on the Monday before Planning Committee.

T. Hodgkinson

Service Director – Place and Communities

Tel: 01623 457365

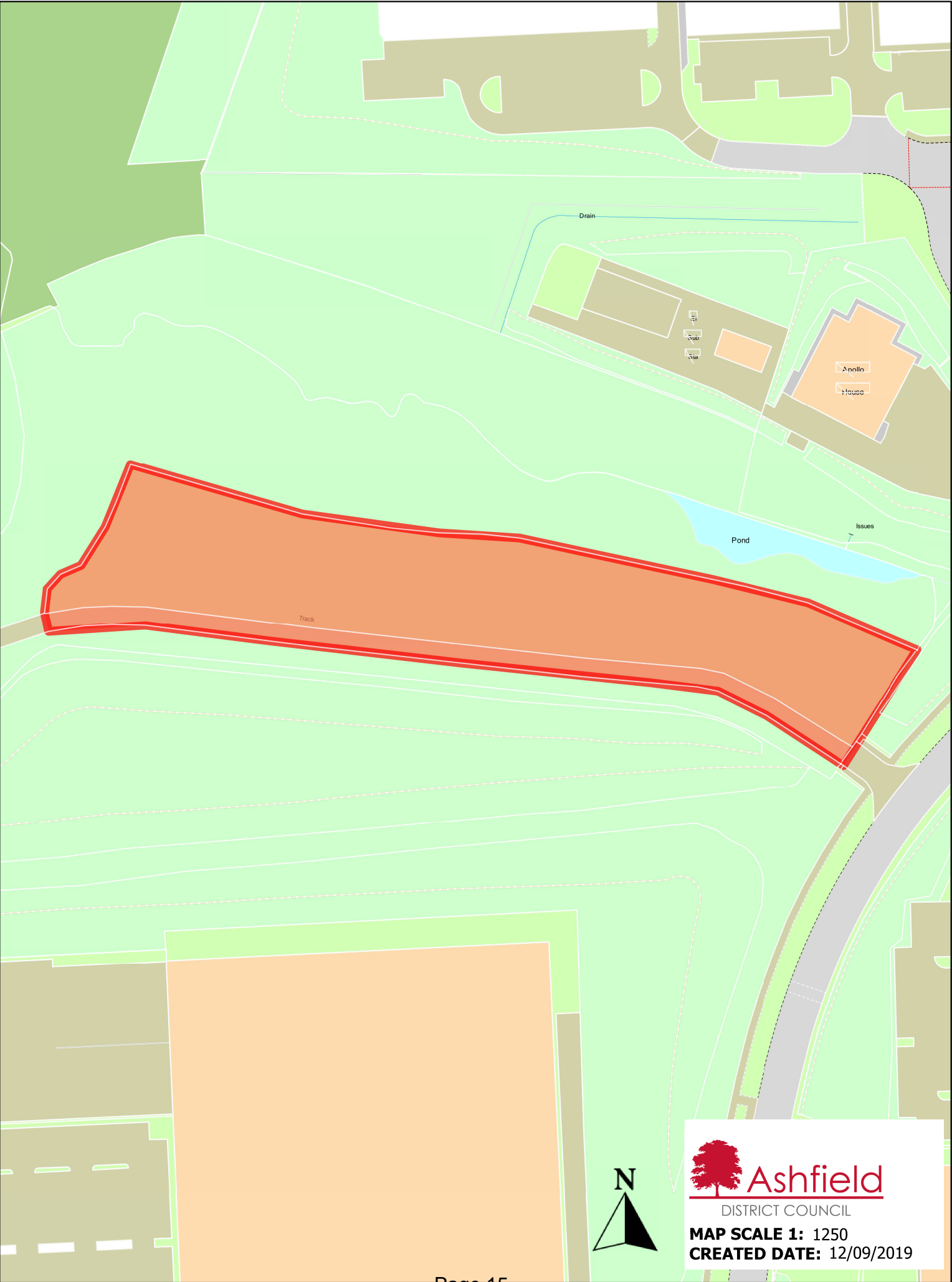
E-mail: t.hodgkinson@ashfield.gov.uk

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PLANNING COMMITTEE – 22nd July 2020

Page	App No	Applicant	Recommendation	Proposal	Location
Annesley					
15-24	V/2019/0459	EON UK PLC	Approve	Application to Remove Condition 1 of Planning Permission V/2017/0022 to Allow Permanent Use of the Car Park	Car Park 21a Willow Drive Annesley
Hucknall North					
25-34	V/2020/0213	Crossman	Approve	Change of Use from Dwelling C3 to 6 bedroom (8 person) House of Multiple Occupation	54 Titchfield Street Hucknall
Hucknall South					
35-46	V/2020/0030	Mr E Clements	Approve	Dwelling	26 Brickyard Brickyard Drive Hucknall
St Marys					
47-52	V/2020/0220	Mr R Bluff	Approval	Change of Use from A1- Retail to A4 - Bar	16 Brook Street Sutton in Ashfield

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COMMITTEE DATE 22/07/2020 **WARD** Annesley and Kirkby
Woodhouse

APP REF V/2019/0459

APPLICANT EON UK Plc

PROPOSAL Application to Remove Condition 1 of Planning
Permission V/2017/0022 to Allow Permanent Use of the
Car Park

LOCATION Car Park, 21a, Willow Drive, Annesley, NG15 0DP

WEB-LINK <https://www.google.com/maps/@53.0700771,-1.2622067,17z>

BACKGROUND PAPERS A, D, F, G & K

App Registered: 19/07/2019 Expiry Date: 31/05/2020

Consideration has been given to the Equalities Act 2010 in processing this application.

This application has been referred to Planning Committee as a local councillor has a personal interest in the site.

The Application

This application seeks planning consent for the removal of Condition 1 of planning permission V/2017/0022, to allow an existing car park within Sherwood Business Park to be used on a permanent basis. This condition presently requires the site to be re-instated to its former condition should the use of the site as a car park cease.

The Section 106 agreement attached to the current permission limits the use of the car park to E.ON staff only. Accordingly, if E.ON were to vacate the business park, the existing car park would need to be removed and could not be used by any other operators.

A deed of variation to the Section 106 agreement is therefore proposed as part of the application to allow the car park to be used on a non-personal basis. A further amendment to the Section 106 agreement is also proposed, which seeks to remove a planning obligation requiring the ongoing management of Davis's Bottom Grassland Local Wildlife Site (LWS) for the lifetime of the development.

The application site comprises of a hard-surfaced, operational car park. The car park presently provides 186 parking spaces, set out in a linear design to best utilise the shape of the site. The car park also features a secure perimeter fence, lighting, CCTV cameras and a security barrier.

The site is located outside of the districts main urban areas and named settlements, in an area classified as Green Belt under policy ST4 and EV1 of the ALPR 2002.

Consultations

A press and site notice have been posted together with individual notification to surrounding businesses.

The following consultations have been received:

Annesley Parish Council:

Fully support the application.

NCC Highways:

The scheme ensures the long-term availability of off-street parking provision for all users. The highways authority have no technical reason to object.

Natural England:

No comments to make on the application.

Notts Wildlife Trust:

First Consultation:

Object to the removal of condition 1 of V/2017/0022. The removal of the condition would permanently remove a future opportunity to restore part of the woodland LWS which has been severely damaged but on which habitat restoration could be achieved.

Second Consultation:

Uphold objection dated 20th August 2019.

Environment Agency:

No comments to make on the application.

Notts County Council Ecology

No comments received

Notts County Council Planning Policy

No comments to make.

Policy

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

National Planning Policy Framework (NPPF) 2019

Part 6 – Building a Strong, Competitive Economy

Part 9 – Promoting Sustainable Transport

Part 12 – Achieving Well Designed Places

Part 13 – Protecting Green Belt Land

Part 15 – Conserving and Enhancing the Natural Environment

Ashfield Local Plan Review (ALPR) 2002

ST1 – Development

ST4 – Remainder of the District

EV1 – Green Belt

EV6 – Sites of Importance for Nature Conservation and Geological Significance

Relevant Planning History

V/2007/0201

Details: Storage and recreational building associated with agricultural and recreational use of land

Decision: Withdrawn

Date: 04/04/07

V/2011/0357

Detail: Prior notification for forestry development, continuation of forestry track

Decision: Approval

Date: 05/08/11

V/2013/0068

Details: Prior notification for forestry development

Decision: Refusal

Date: 06/03/13

V/2013/0669

Details: Change of use of land to car park including flexible surfacing, perimeter fence, CCTV security, barriers and lighting

Decision: Approval

Date: 12/11/14

V/2015/0474

Details: Application for approval of details reserved by condition of planning permission V/2013/0669

Decision: Conditions Discharged

Date: 22/09/15

V/2017/0022

Details: Remove Condition 1 of Planning Permission V/2013/0669 to Allow Permanent Use of Car Park

Decision: Approval

Date: 21/08/17

Comment:

The application site comprises of a car park located on Sherwood Business Park, outside of the districts main urban areas and named settlements, in an area classified as Green Belt under policy ST4 and EV1 of the ALPR 2002.

The car park was granted temporary planning permission in 2014 (planning ref: V/2013/0669) for a period of five years subject to conditions and a S106 Agreement that included:

- A schedule to restrict the use of the car park to staff of E.ON only.
- A scheme to include a plan of habitat management works on adjacent land designated as Davis's Bottom Grassland Local Wildlife Site (2/212), for the lifetime of the development. The plan was to be updated every five years and works to be implemented as agreed.

In 2017 (planning ref: V/2017/0022) permission was granted to remove the 5 year limitation of the use of the car park however it was still limited to be occupied by E.ON staff and the Ecological Management Plan was retained.

This current application seeks planning consent for the removal of Condition 1 of planning permission V/2017/0022 and proposes a deed of variation to the legal agreement, to allow the car park to be used by all occupiers of Sherwood Business Park. The proposal also includes removal of the requirement to monitor the local wildlife site since the Ecological Management Plan objectives have been met.

The main issues that require consideration are whether the condition and the legal agreement are still necessary and warranted taking into account the principle of the development, the impact of the proposal has on the character and appearance of the wider area, the ecology and highway safety within the locality.

Principle of Development:

The Car park has now been established on site for approximately 4 years. It has always been accepted that the proposal does not constitute appropriate development in the Green Belt, as defined by both Part 13 of the NPPF 2019 and policy EV1 of the ALPR 2002 but very special circumstances have been demonstrated (paragraph 143 of the NPPF) to justify the proposal.

Reference has been made to paragraph 80 of the Framework, which states that *"significant weight should be placed on the need to support economic growth and productivity, taking into account both local and business needs and wider opportunities for development"*.

Since opening in October 2016, the car park to which this application relates, has been actively monitored and its usage during the working week is over 90% of capacity. This demonstrates the car park is operating well and the benefits associated with a permanent formal car park are being delivered with the impact on

the local area reduced. E.ON's temporary parking facilities have now closed and staff are using the Willow Drive car park as intended.

In terms of the wider site, other occupiers of Sherwood Business Park clearly have parking space shortages. Evidence has been submitted with the application which demonstrates that off-street car parking within Sherwood Business Park is generally insufficient.

An on-street parking survey indicates that the streets around E.ON's offices are continually occupied throughout the day but with very limited illegal parking. It is noticeable that on-street parking is also occurring around the centre of Lakeview Drive and along Willow Drive. Given some distance from E.ON's existing offices, this parking is likely to relate to other occupiers around the business park.

Many occupiers of Sherwood Business Park, including E.ON, are unable to extend their current parking facilities into existing surrounding landscape areas as this would result in removing circulation routes and the creation of 'tandem parking', which would largely negate any benefits due to the difficulties with the practicalities of this type of parking. In addition, this type of parking is one not considered effective by the Highway Authority.

Whilst it is recognised that the car park directly protects jobs at E.ON and significantly supports growth objectives, if the Willow Drive car park were to become available for use by others, it is considered that this would remain entirely consistent with the objectives of the NPPF, as the provision of car parking is a crucial qualitative factor for occupiers when deciding where to locate their businesses. As such, the policy objective of supporting economic growth would be met regardless of whether the car park is used by E.ON or any other occupier of the Sherwood Business Park.

This application, in its direct protection of jobs at E.ON and other occupiers of Sherwood Business Park, is therefore considered to significantly support the economic growth objectives. As such, the development accords with local and national policies in terms of this aspect together with the corporate aims of the council and is therefore to be given significant weight as a material consideration to justify very special circumstances associated with the proposal.

Character & Appearance:

Development within the Green Belt must be located and designed so as to not adversely affect the purposes of Green Belt and its openness. The development is however already in operation and measures have been implemented to mitigate against the harm. The impact upon the appearance of the Green Belt has previously been considered to be acceptable and this proposal has no greater impact and therefore accords with policy EV1 of the ALPR 2002 and the NPPF 2019.

Ecology:

The site is located within a designated Local Wildlife Sites (LWS) however it was accepted previously that this impact could be mitigated with the habitat management works on adjacent land designated as Davis's Bottom Grassland Local Wildlife Site. All the works required have been completed and this wildlife site is considered to be well established. Policy EV6 of the ALPR 2002 is of particular importance together with Part 15 of the NPPF 2019 in respect of considering ecological issues.

Paragraph 171 of the Framework seeks to ensure that a hierarchy of international, national and locally designated sites is established so that protection is commensurate with their status and gives appropriate weight to their importance. Paragraph 175 of the NPPF states that if significant harm resulting from the development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused. This is reflected within policy EV6 of the Ashfield Local Plan 2002.

The majority of the application site is already leveled and used as a car park. Therefore, this should be taken into account in the consideration of this application. The additional impact of the proposal on ecology through the permanent use of the site should however also to be considered.

Nottinghamshire Wildlife Trust raise significant concerns regarding the proposed permanent use of the site as a car park, and object to the development on the grounds that the permanent use of the car park would remove any future opportunity to restore part of the woodland at the LWS that has already been severely damaged.

As part of the previous planning conditions/obligations, the applicant has been required to provide an Ecological Management Plan (EMP) to compensate for the damage to the woodland habitat, by enhancing the adjacent Davis's Bottom Grassland LWS.

Whilst Nottinghamshire Wildlife Trust acknowledge that these works are valuable and that progress has been reported, further concerns are raised that the benefits of the scheme could be lost if management isn't on-going.

An EMP for the area of grassland used for off-site mitigation was prepared in June 2014, to cover the period 2014 to 2019, in line with the Section 106 agreement. The ecological works were completed in Spring 2015. As set out by the EMP the first three rounds of monitoring have been undertaken. The review of the monitoring has demonstrated that the planning obligations in respect of ecology for the development have been fully met to date and have delivered clear planning benefits which have off-set the impact of the tree clearance.

Due to changes in land ownership since the initial application in 2013, the continued off-site management and monitoring of the adjacent LWS for the lifetime of the development is now no longer within the applicants control, and subsequently, the

removal of the clause in the Section 106 agreement, requiring the continued monitoring of the Ecological Management Plan (EMP), is proposed.

Highways:

The Highway Authority have raised no objection to the proposal. They recognise that there are parking difficulties at Sherwood Business Park, and the proposal would ensure the long-term availability of off-street parking provision for all potential users in the future.

It is considered that allowing the site to be used permanently by any user of the Sherwood Business Park would not result in any increased traffic at the site, and would importantly help to alleviate an existing parking problem.

The development is therefore considered to not give rise to a detrimental impact on highway safety or capacity, and would improve the existing parking situation at Sherwood Business Park, as reflected in the response from the Highway Authority.

Conclusion:

The car park has been established and justified for almost 4 years and although limitations have previously been imposed it has been established that there is a need for parking to serve the business park and not just E.ON. The applicant is now seeking certainty and clarification that the development can continue irrespective of the occupier. It is recognized, that since Sherwood Business Park is surrounded by the Green Belt, that realistically there is no reasonable alternative within close proximity outside of the Green Belt to provide parking easily.

It is further considered the applicant has demonstrated very special circumstances insofar that approval of the proposal would assist in retaining a significant number of jobs at Sherwood Business Park, which could potentially be lost or significantly reduced should employment units be vacated or left unoccupied through on-going insufficient parking facilities.

Subsequently, taking into account the significant parking difficulties faced by E.ON and other businesses on Sherwood Business Park, the comprehensive search undertaken for alternatives and the significant economic benefit of the businesses to Ashfield, it is considered that in this instance very special circumstances exist, in accordance with local and national planning policy and the strategic aims of the Corporate Strategy and the Corporate Plan.

Whilst there is no guarantee that E.ON will remain on the site in the future, the removal on Condition 1 of V/201/0022 would allow any future occupant to utilise the car park facility, providing any company with certainty for the future.

In respect of the Ecological Management Plan it has been demonstrated that the requirements to mitigate the development have been completed on the Davis's

Bottom Grassland Local Wildlife Site. This will remain a Local Wildlife site and monitoring linked to this development is no longer considered essential.

On balance, the proposal is considered to be acceptable subject to a deed of variation to the previous section 106 agreement, removing restrictions which currently prevent other users of Sherwood Business Park from utilising the parking facility and the requirement to monitor the EMP is no longer required since the area will remain a local wildlife site.

Recommendation: Grant permission to vary condition 1 and enter into a deed of variation to the S106 legal agreement as detailed in the report.

CONDITIONS

1. This permission shall be read in accordance with the following plans: Site Location Plan Scale 1:1250, Received 18/07/19; Proposed Car Park Layout, Drawing No. 2013.4902.02, Received 18/07/19. The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.
2. Within 3 months from that date of this permission, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority.
3. The development shall remain in accordance with the approved landscaping scheme, unless the Local Planning Authority gives written approval to any variation.
4. The development shall remain in accordance with the approved lighting scheme and maintained and retained as such for the life of the development.
5. The surface water drainage details shall remain in accordance with the approved details, unless the Local Planning Authority gives written approval to any variation.
6. The surface materials shall remain in accordance with the approved details, unless the Local Planning Authority gives written approval to any variation.
7. The boundary treatments shall remain in accordance with the approved details unless the Local Planning Authority gives written approval to any variation.

8. The CCTV security system shall remain in accordance with the approved details, unless the Local Planning Authority gives written approval to any variation.

REASONS

1. To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application.
2. In the interest of encouraging sustainable forms of transport.
3. To ensure the satisfactory overall appearance of the completed development and to help assimilate the development into its surroundings.
4. In the interests of visual amenity of the Green Belt and to protect wildlife adjacent to the site.
5. To ensure the development is adequately drained.
6. To ensure the satisfactory appearance of the completed development.
7. To ensure the satisfactory appearance of the completed development.
8. To protect and safeguard the visual amenity of the area.

INFORMATIVE

1. The applicant/developer is strongly advised to ensure compliance with all planning conditions, if any, attached to the decision. Failure to do so could result in LEGAL action being taken by the Ashfield District Council at an appropriate time, to ensure full compliance. If you require any guidance or clarification with regard to the terms of any planning conditions then do not hesitate to contact the Development & Building Control Section of the Authority on Mansfield (01623 450000).



COMMITTEE DATE 22/07/2020 **WARD** Hucknall North

APP REF V/2020/0213

APPLICANT Crossman

PROPOSAL Change of Use from Dwelling C3 to 6 bedroom (8 person)
House of Multiple Occupation

LOCATION 54 Titchfield Street, Hucknall, Nottingham, NG15 7BH

WEB-LINK <https://www.google.co.uk/maps/@53.0391818,-1.202093,17z>

BACKGROUND PAPERS A, D, C, E & K

App Registered: 03/04/2020

Expiry Date: 28/05/2020

Consideration has been given to the Equalities Act 2010 in processing this application.

This application has been referred to Planning Committee by Councillor David Shaw on the grounds of visual amenity, residential amenity and highway safety.

The Application

This is an application that seeks consent for the change of use of an existing dwelling (C3) to a six bedroom, eight person House in Multiple Occupation (HMO) (Sui Generis), accommodated by way of four single bedrooms, and two double bedrooms. With the exception of replacement fenestration, there is to be no other external alterations to the property.

The application site comprises of a three-storey, mid-terraced property, located amongst existing residential development. The site is located approximately 75m to the north of Hucknall's designated town centre, and is also sited within 50m of the Grade II listed building known as the Masters Hosier's House, which is located to the north-east of the site on Albert Street.

Consultations

A press notice and a site notice have been posted together with individual notification to surrounding residents.

The following responses have been received:

Resident Comments:

12x Letters of concern/objection have been received from local residents raising the following:

- Increased on-street parking
- Increase in traffic
- Overbearing impact
- Overshadowing impact
- Overlooking impact
- Increased noise and disturbance
- Increased amounts of waste
- Increased cooking odour
- Increased flooding
- Unsuitable location – area is predominantly occupied by families
- Increased spread of viruses

Ashfield District Council Environmental Health:

No objections to the proposed development. Should any building works be undertaken, the contract should adhere to legislation regarding noise and dust.

Ashfield District Council Private Sector Enforcement (Housing):

No objections to the proposed development. If permission is granted, the applicant will be required to obtain a licence from the Private Sector Enforcement Team.

Nottinghamshire County Council Highways:

Parking on-street is controlled and is also resident permit parking Monday to Saturday between 8am to 6pm. Therefore parking will not be an issue in this location. It is unlikely that this proposal will result in an unacceptable risk to highway safety. The Highway Authority do not wish to raise objections to the proposal.

Policy

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

National Planning Policy Framework (NPPF) 2019

Part 5 – Delivering a Sufficient Supply of Homes

Part 8 – Promoting Healthy and Safe Communities

Part 9 – Promoting Sustainable Transport

Part 12 – Achieving Well Designed Places

Part 16 – Conserving and Enhancing the Historic Environment

Ashfield Local Plan Review (ALPR) 2002

ST1 – Development

ST2 – Main Urban Area

HG8 – Residential Care Facilities, Houses in Multiple Occupation, Bedsits, Flats and Hostels

Supplementary Planning Documents
Residential Design Guide 2014
Residential Car Parking Standards 2014

Relevant Planning History:

None.

Comment:

The application site is located within the main urban area of Hucknall, and comprises of a mid-terraced, three-storey, five bedroom property which is presently utilised as a residential dwelling (C3 use class). The site is located on Titchfield Street which is accessed off Torkard Way and is located within close proximity to Hucknall town centre.

The property currently consists of a lounge, dining room and kitchen at ground floor, three bedrooms and a bathroom on the first floor, and two further bedrooms and two store rooms on the second floor. The property also benefits from a basement room, as well as a detached outbuilding to the rear of the property. There is no restriction on the size of family that could occupy the dwelling.

As part of the proposed change of use of use to a six bedroom, eight person HMO, internal alterations are proposed to create a combined kitchen/living/dining room, as well as a bedroom at ground floor level, three bedrooms at first floor level, and two bedrooms at second floor level. Each bedroom will benefit from its own bathroom space. The basement is proposed to be converted into a utility/store room, whilst the existing outbuilding will be retained and utilised for cycle storage.

The area immediately surrounding the application site is predominantly residential in character and appearance. Properties surrounding the site on Titchfield Street, The Connery and Albert Street, are generally two-storey, terraced properties constructed in the early to mid 1800's, including the Grade II listed building known as the Masters Hosier's House, which is sited 15m to the north-east of the property. The site is not located within the designated Conservation Area.

The main issues to consider as part of this proposal is the principle of the development, the impact of the proposal on visual and residential amenity, highway safety, as well as matters relating to the historic environment.

Principle of Development:

The proposal site is located in the Main Urban Area as defined by Ashfield Local Plan Review 2002 (ALPR), Policy ST2 and the Proposals Map. The Policy identifies that development will be concentrated within the Main Urban Areas.

The NPPF 2019 sets out three overarching objectives to achieving sustainable development. These are an economic objective, a social objective, and an environmental objective. The social objective, amongst other things, seeks to

support strong, vibrant and healthy communities, by ensuring that a sufficient number and ranges of homes can be provided to meet the needs of present and future generations.

This objective is reflected in Part 5 – Delivering a Sufficient Supply of Homes of the NPPF 2019, which sets out the Government’s aim to significantly boost the supply of homes. Within this context, paragraph 61 of the Framework specifies that the size, type and tenure of housing need for different groups within the community should be considered. This, amongst others, includes rented properties, such as HMO’s as proposed by this application.

The proposal would subsequently be compliant with both local and national planning policy, provided all other material planning considerations could be appropriately satisfied.

It is pertinent to note that the property at 54 Titchfield Street benefits from permitted development rights. Subsequently, the dwelling could be converted into a six bedroom, six person HMO with no need for an application for planning permission under The Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 3 Class L. This application however seeks consent for a HMO with two inhabitants above the permitted development level, and therefore requires planning permission.

Impact Upon the Character and Appearance of the Area & Heritage Assets:

Limited external alterations are proposed as part of the change of use scheme. Alterations will include the replacement of existing fenestration and general repairs and maintenance to the existing façade of the building. The existing outbuilding which is located to the rear of the property is also proposed to be retained and repaired as part of the proposed scheme. The minor external alterations proposed would be possible without requiring any form of planning permission.

Given that no significant alterations are proposed to the existing building, the property will retain its existing appearance, and will subsequently continue to assimilate into the surrounding residential area.

As previously mentioned, the application site is located approximately 15m from a Grade II listed building, which is sited on Albert Street. It is however considered that given that the appearance of the property will remain largely unaltered with the exception of new windows and doors, it is considered that the proposal would not give rise to any harmful impact to the nearby designated heritage asset.

Residential Amenity:

A number of objections have been received from local residents in regards to the potential massing, overshadowing and overlooking impact arising from the proposed development.

No new built development is proposed as part of the scheme. As such, the proposal would not give rise to any massing or overshadowing impact on neighbours. In regards to the perceived overlooking impact, the applicant has confirmed that no alterations to the property are proposed that would result in any change to the existing situation in respect of overlooking of neighbouring properties. Subsequently, any pre-existing overlooking from and towards the property will remain the same, and there will therefore be no change in the level of residential amenity currently afforded to residents of nearby properties.

Residents have also raised concerns regarding increased noise and disturbance arising from the proposed change of use.

As previously noted, the existing property already benefits from five bedrooms, and there is no restriction on the size of family which could presently occupy the property. Further, under Permitted Development Legislation, the dwelling could be converted into a six bedroom, six person HMO without requiring planning permission. Essentially, consideration is therefore given to whether two additional occupants (eight in total) would give rise to an unacceptable level of noise and disturbance to nearby residential occupiers.

No objections have been received from the Council's Environmental Health officers, nor have the Council's Private Sector Enforcement team raised any objections to the proposal.

The applicant has confirmed that renovations of the property as part of the works to prepare it for use as a HMO will include the installation of additional acoustic insulation, in accordance with requirements set out in the Building Regulations. This will reduce the propensity for noise to travel within and beyond the boundary of the property. Such works would be secured by way of planning condition as part of any approval.

The applicant has also provided details of their vetting process for prospective tenants. It is confirmed that applications for tenancies are subject to a comprehensive screening process, which includes the requirement to provide references, employment details and bank statements to establish character and financial suitability. Unsuitable applicants are rejected.

It is however in any case incorrect to assume that future residents of a HMO will be any more inclined to generate noise or disturbance than any other local household. Furthermore, noise levels in excess of what might ordinarily be considered acceptable are subject to control through Environmental Health legislation. Subsequently there is no basis to suggest that use of the property as a HMO for eight individuals would in any way be detrimental to the amenity enjoyed by existing local residents by reason of noise or other disturbances. The proposal is subsequently considered to accord with paragraph 127 of the NPPF 2019, which

seeks to 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.

Matters regarding increased amounts of waste have also been raised by local residents. Adequate space is available for waste storage, including separate bins for general waste and recycling. Bins will be stored within the rear garden area and placed to the front of the property only on bin collection days like any other residential property within the area.

Highway Safety:

Concerns have been raised by local residents regarding increased traffic and on-street parking as a result of the proposed development.

As can be observed on site, properties within the vicinity of the site are largely set on the back edge of the public highway, and as such, many do not benefit from off-street parking provision. The application site does however benefit from an existing dropped vehicular access and under croft parking for up to two vehicles. The width of the under croft parking would however fall marginally below the necessary width of 2.4m to be classed as a parking space, as stipulated within the Council's Residential Car Parking Standards SPD 2014.

On-street parking is nevertheless available on surrounding residential streets. Due to the proximity of the site to Hucknall town centre, day time parking in the vicinity of the property is controlled by way of a resident parking permit scheme. Should any future resident wish to park a vehicle on the street near to the property during the daytime, then they would first be required to obtain a permit by application to the County Council, for which an application fee is payable.

Areas outside of the designated on-street parking bays are controlled by parking regulations, such as double yellow lines. Subsequently, the Highways Authority have confirmed that the proposal would be unlikely to result in an unacceptable risk to highway safety in this area, and therefore do not raise any objections to the proposed scheme.

It is however considered that given the location of the site, which is within 75m of Hucknall town centre, any future occupiers of the property will have little use for a car. The premises is within easy walking distance of major transport nodes, such as the bus stops and tram/train station, as well as leisure and retail facilities.

Conclusion:

The NPPF 2019 sets out three overarching objectives to sustainable development – economic, social and environmental. These are considered in the context of the overall planning balance.

Limited external alterations are proposed as part of the change of use scheme and therefore the proposal will not give rise to an adverse impact on the character and

appearance of the street scene, nor will it give rise to a harmful impact on the setting of a Grade II listed building.

The social tenet of sustainable development seeks to ensure that a sufficient number and range of homes can be provided to meet the needs of present and future generations, which amongst others, includes the provision of rented accommodation, like HMO's. The proposed development will help to meet that need, contributing to improved choice within a sustainable, main urban area location, which is within close proximity to retail and leisure provisions, and major public transport nodes.

The application site is considered to be of a sufficient size to accommodate the proposed use, whilst ensuring that the impact on existing neighbouring properties is limited.

On balance therefore, it is considered that the proposal constitutes an appropriate form of development, and it is subsequently recommended that this application is granted conditional consent.

Recommendation: Grant Conditional Consent

CONDITIONS

- 1. The development hereby approved shall be begun before the expiration of 3 years from the date of this permission.**
- 2. This permission shall be read in accordance with the following plans and details: Site Location Plan, Drawing No. P/001, Received 21/03/20; Proposed Floor Plans, Drawing No. P/004 Rev A, Received 31/03/20. The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.**
- 3. Prior to commencement of the hereby permitted use, a sound test and details of any necessary insulation against the transmission of noise associated with the hereby approved use to the neighbouring properties shall be submitted and approved in writing by the Local Planning Authority. This test shall be carried out in accordance with Part E of Building Regulations.**
- 4. The outbuilding to the rear of the site shall be used for no other purpose other than for the storage of residential paraphernalia.**
- 5. The hereby approved House in Multiple Occupation shall provide residential accommodation for a maximum of eight people.**

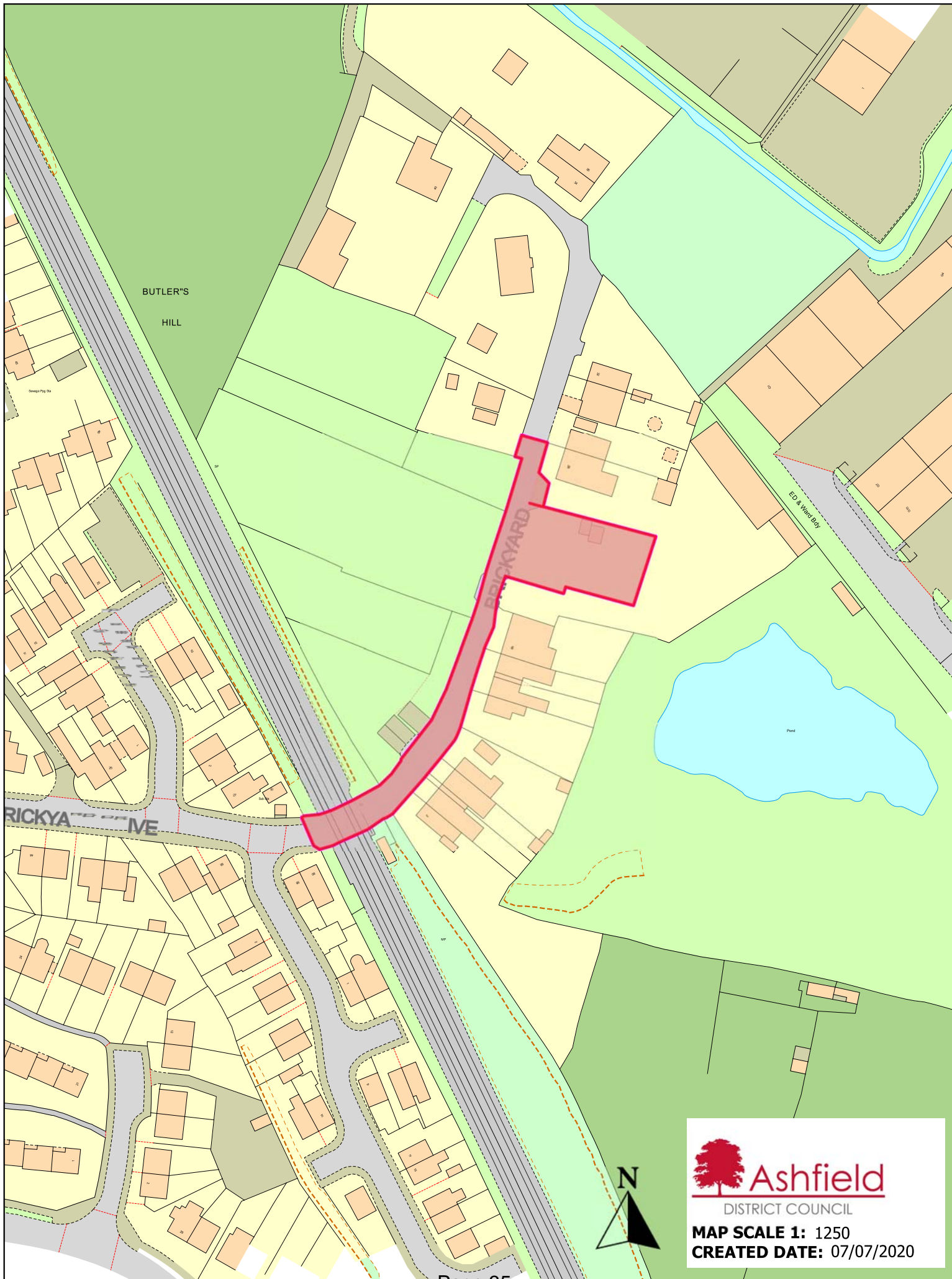
REASONS

- 1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended.**
- 2. To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application.**
- 3. In the interests of residential amenity.**
- 4. In the interests of residential amenity.**
- 5. To define the terms of this permission and for the avoidance of doubt.**

INFORMATIVES

- 1. The applicant/developer is strongly advised to ensure compliance with all planning conditions, if any, attached to the decision. Failure to do so could result in LEGAL action being taken by the Ashfield District Council at an appropriate time, to ensure full compliance. If you require any guidance or clarification with regard to the terms of any planning conditions then do not hesitate to contact the Development & Building Control Section of the Authority on Mansfield (01623 450000).**
- 2. The applicant/developer is strongly advised to contact the Council's Private Sector Enforcement to obtain the relevant license before the property is first occupied as a House in Multiple Occupation. The team can be contacted by email on privatesector@ashfield.gov.uk or by telephone on 01623 457345.**

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COMMITTEE DATE 22/07/2020 **WARD** Hucknall South

APP REF V/2020/0030

APPLICANT E Clements

PROPOSAL Dwelling

LOCATION 26 Brickyard, Brickyard Drive, Hucknall, Nottingham, NG15 7PG

WEB-LINK <https://www.google.co.uk/maps/@53.0320159,-1.1904576,18z>

BACKGROUND PAPERS A, C, D, E, K

App Registered: 14/02/2020 Expiry Date: 24/04/2020

Consideration has been given to the Equalities Act 2010 in processing this application.

This application has been referred to Planning Committee by Cllr. L Mitchell on the grounds of highways, visual amenity and irregularities with the application.

The Application

This application was deferred by committee on the 13 May 2020 to enable members to visit the site.

The application site is located within the main urban area of Hucknall, and consists of a parcel of garden land used in association with the residential dwelling at 26 Brickyard. The site is positioned between no. 16 and 26 Brickyard and presently comprises of an area of lawned garden and two small domestic outbuildings. The application site is accessed via an unadopted highway.

The applicant seeks planning permission for the construction of a detached dwelling, with associated parking and amenity space.

Consultations

Site Notices have been posted together with individual notification to surrounding residents.

The following responses have been received:

Resident Comments:

1x Letter of objection received from a local residents association and 6x letters of objection received from local residents raising concern in respect of the following:

- Access to the site is via an unadopted road
 - o Poor condition
 - o Increased traffic during construction and occupants thereafter will cause further deterioration of the road
 - o Pedestrian and vehicular conflict
 - o Narrow – no manoeuvring or turning space
 - o Prevalent on-street parking
 - o Do not have easement rights
- Safety concerns regarding the railway crossing
 - o Large vehicles (refuse trucks, emergency vehicles, HGVs) have to reverse over the crossing
 - o Intensification of the substandard crossing
- Impact on visual amenity/proposal out of character
- Proposal will exacerbate flooding
- Water pressure would be affected
- Proposal will effect ground stability
- Close proximity to industrial uses
- Plans and information submitted is inaccurate
- Query over ownership of the land
- Unauthorised business being run from the site

ADC Environmental Health (Noise):

No objections to the principle of development, however in the interest of the amenity of existing and future occupiers, conditions and informatives are requested as part of any approval in relation to construction hours, the submission of a construction management plan, measures to protect future occupiers from noise associated with the commercial uses on Wigwam Lane, and to ensure compliance with current legislation on noise and dust.

ADC Environmental Protection (Contamination):

Historical mapping shows that the site has previously been used for the manufacturing of bricks, which has the potential to adversely affect ground conditions. A Contamination and Soil Sampling Assessment has been undertaken, and the results of the investigation indicate that the site is adequate and safe for residential use.

NCC Highways Authority:

The highway abutting Brickyard meets the standards required to serve a private drive for the existing and committed number of dwellings, in addition to an additional dwelling. One new dwelling will not represent a severe cumulative impact on the adjacent highway nor will it result in an unacceptable impact on highway safety. The Highways Authority therefore have no reasonable grounds to raise an objection.

Network Rail:

No objections to the principle of the development. Recommend a condition in regards to sound proofing and informatives to ensure the crossing remains clear and unobstructed at all times, and that access to railway undertakers land is kept open at all times during construction and thereafter.

Policy

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

National Planning Policy Framework (NPPF) 2019

Part 5 – Delivering a Sufficient Supply of Homes

Part 9 – Promoting Sustainable Transport

Part 11 – Making Effective Use of Land

Part 12 – Achieving Well Designed Places

Ashfield Local Plan Review (ALPR) 2002

ST1 – Development

ST2 – Main Urban Area

HG5 – New Residential Development

Supplementary Planning Guidance Notes

Residential Design Guide SPD 2014

Residential Car Parking Standards SPD 2014

Relevant Planning History

V/1987/0146

Details: Site for Dwellings

Decision: Refusal

V/2018/0152

Details: Outline Application with all Matters Reserved for 3 Dwellings

Decision: Refusal

Comment:

The application site comprises of a parcel of land situated between 16 and 26 Brickyard, and is presently used as part of the residential curtilage associated with the dwelling at 26 Brickyard. The site itself fronts onto the highway known as the 'Brickyard', and currently consists of an area of well-maintained lawn and two small domestic outbuildings.

The site is accessed off the Brickyard, which is an unadopted highway. Access to the Brickyard is taken over the tram/train line via an automated barrier from an adopted road known as Brickyard Drive to the south of the site.

Sited directly adjacent to the north and south of the site is existing residential development sited on the eastern side of the Brickyard. Directly opposite the site to

the west is an area of open land which is predominantly used as paddocks. To the north-west of the site, on the western side of the Brickyard, is further residential development, in addition to a vacant parcel of land where permission has recently been granted for the construction of one dwelling.

To the east of the site is an area of open land, comprising of a pond, which extends to the rear of properties along the Brickyard to the south of the site. Further afield to the east of site, approximately 40-50m away, is the established industrial estate of Wigwam Lane.

The application site is located within the main urban area of Hucknall, where under the provisions of saved policy ST2 of the ALPR 2002, the principle of development is acceptable providing no other material planning considerations indicate otherwise.

Visual Amenity:

The applicant proposes the construction of one, four bedroom, two-storey dwelling with rooms in the roof space. A detached garage is also proposed to be constructed to the rear of the site.

Within the vicinity of the application site, there are examples of both single and two storey dwellings, albeit predominantly two-storey properties. There are also examples of detached, semi-detached and terraced properties along the Brickyard.

The proposed dwelling will be sited approximately 5m back from the highway edge, in line with the building line created by properties on the eastern side of the Brickyard. The proposed garage will be sited approximately 30m from the highway edge, in line with a garage at neighbouring property 26 Brickyard.

In terms of the design, the dwelling and garage are proposed to be constructed from brick and tile. Whilst the specific materials have not been provided at the present time, within the vicinity of the site there are examples of properties which have been constructed using comparable materials. As such, a dwelling constructed in brick and tile would not appear significantly out of keeping with the appearance of buildings found within the vicinity of the site. A condition will be attached to any approval requiring details of the brick and tile to be used in the construction of the dwelling to be submitted for approval.

Stone cills and headers are also proposed to be incorporated into the design of the scheme, improving the overall appearance of the proposed dwelling, and drawing upon the design features of a number of properties along the Brickyard. Dormer windows are also proposed to be incorporated into the roof slope on the front and rear elevations. Such a feature is already apparent in the street scene.

Whilst it is acknowledged that the proposed dwelling is larger in scale and appearance to those adjacent to the north and south of the site, the footprint of the

dwelling is however comparable to properties to the north-west of the site, and others along the Brickyard which have previously been extended.

Whilst specific details regarding landscaping and boundary treatments have not been provided, these matters can be appropriately conditioned as part of any approval.

With the above in mind, it is considered that the siting and design of the dwelling is acceptable, and the proposal will not appear significantly at odds with the existing surrounding development, which would warrant the refusal of the application.

Residential Amenity:

The room sizes and area of private amenity space to the rear of the dwelling exceed the minimum requirements, as detailed in the Council's Residential Design Guide SPD for a 4+ bedroom property. There are therefore no concerns regarding the proposal being an overdevelopment of the plot, and the proposed dwelling will provide adequate living conditions for any future occupiers of the property.

Concerns have been raised by local residents in respect of the overlooking impact that the proposal will have on neighbouring residential occupiers. The Council's Residential Design Guide 2014 stipulates that a minimum of 21m should be obtained between main habitable room windows to protect privacy. Given that the main habitable room windows in the proposed dwelling do not face onto any other residential development, the proposal therefore cannot be seen to give rise to a significant loss of privacy to neighbouring residents. Whilst a window is proposed in the northern side elevation of the proposal facing 26 Brickyard, this is a ground floor window which would face onto the driveway and parking area associated with the proposed dwelling. Whilst neighbours have also raised concerns regarding the overlooking of amenity space, it is considered that any overlooking of amenity space would be no greater than what is already experienced from the linear pattern of development.

Whilst not raised by residents, matters relating to massing and overshadowing have also been fully considered. The development will be sited approximately 2m from the neighbouring property at 16 Brickyard, which has no windows sited in the side elevation facing the application site. Given that the dwelling will be sited in line with the existing pattern of development and will not project further forward or to the rear than the neighbouring property, it is considered that there is no significant massing impact arising from the proposal.

It is however acknowledged that the neighbouring property at no. 16 has two dormer windows in the front elevation which are set back from the principle elevation of the dwelling by approximately 1m. The BRE 45 degree code has therefore been assessed in respect of these windows, and the 45 degree code is not breached in plan or elevation. The proposal therefore would not result in a detrimental loss of light to these windows.

A Construction Management plan has been submitted by the applicant to reduce the impact from construction works on neighbouring residential occupiers, in accordance with the comments received from the Council's Environmental Health officer. Hours of construction have also been included in the plan, which reflect those suggested by the EHO. Should the application be approved, a condition would be attached requiring the construction of the dwelling to be carried out in accordance with this plan.

It is therefore considered that the proposal will not give rise to any significant impacts on the amenity of nearby residents.

Highway Safety:

In the determination of this application due consideration has to be given to Part 9 – Promoting Sustainable Transport of the NPPF 2019.

The majority of concerns raised by local residents as part of the consultation process relate to the proposed access. This includes concerns regarding existing parking congestion along Brickyard, poor manoeuvrability/turning areas, additional vehicles, such as HGVs, using the access road, and its current poor state of repair.

The Brickyard is an unadopted residential cul de sac, which is accessed over an existing signalled railway line. Whilst a number of residential properties do exhibit off-street parking, a number of properties do not, resulting in the prevalence of on-street parking in the area.

A parking plan, as requested by the Highways Authority, has been submitted with the application which demonstrates that the proposed scheme will provide sufficient space within the curtilage for a minimum of four off-street parking spaces, both externally and within the garage/carport space, exceeding the minimum requirement stipulated for a 4+ bedroom property in the Council's Residential Car Parking Standards SPD 2014, in addition to appropriate manoeuvring space, allowing vehicles to enter and egress the site in a forward gear.

The proposal would therefore be unlikely to exacerbate on-street parking along the highway, nor would it result in any increased likelihood of vehicular/vehicular and vehicular/pedestrian conflict.

Local residents have raised concerns in regards to the poor state of repair that the Brickyard is in, which is presently constructed of road stone, and contains numerous pot holes of varying sizes. Concerns are raised that the development will put the existing road under further use and strain, resulting in further deterioration of the driveway leading to further expense in its repair, and causing danger to local residents. Issues relating to easement rights over the access drive have also been raised.

Whilst it is acknowledged that the access driveway remains a source of frustration and aggravation for local residents, the liability for the maintenance of the road lies beyond that of the Local and County Council, and is a civil matter that would need to be resolved between residents outside of the planning system. Again, the legality over rights of access for any future occupiers is also a civil matter and does not form a consideration during the determination of this application.

The Highways Authority have confirmed that the highway abutting the Brickyard meets the standards required to serve a private drive of the existing and committed number of dwellings, in addition to an additional dwelling, and therefore one new dwelling will not represent a severe cumulative impact on the adjacent highway, nor will it result in an unacceptable impact on highway safety. The Highways Authority therefore do not object to the scale or principle of the proposed development.

Local residents have also raised safety concerns in respect of the railway level crossing required to pass over to reach the application site.

The Council recognises that as part of Network Rail's 2016 Risk Assessment report on the level crossing, it was noted that the preferred option would be to close the existing crossing and replace it with a road bridge. However, the cost in doing so could not be justified, and as such, the existing signalled, half barrier crossing would remain in situ for the foreseeable future.

Comments received from Network Rail offer no objection to the proposed development, subject to informatives being attached to any approval requesting the applicant provides any future occupiers with railway crossing safety information, and requesting that access to railway undertakers land should be kept open at all times.

As such, it is considered that the addition of one further dwelling in this location would not give rise to an unacceptable impact on the safety of the railway crossing in this location. It is therefore considered that the proposal will not result in any significant detrimental impact on highway safety in this location, and the application is subsequently considered acceptable on highway grounds.

Other Matters:

Flooding:

Concerns have also been raised by local residents regarding the increased likelihood of flooding should the development be approved. The Environment Agency's flood mapping system has been reviewed and the site is not located within zones 2 or 3, nor is the site known to be susceptible to surface water flooding.

Nevertheless, to ensure that an appropriate drainage scheme is implemented to ensure that any increased risk of flooding is reduced, a condition will be applied to any grant of permission requiring drainage plans to be submitted.

Land Ownership:

Local residents have raised concerns regarding land ownership. A land registry search has been undertaken which demonstrates that the application site, adjacent to 26 Brickyard, is owned solely by the applicant. However, given that the access driveway, known as the Brickyard, is unadopted, notice is required to be served on all parties with ownership or access over this land. The applicant has subsequently signed Certificate D in the application form, and a press notice has been issued in the local paper, in accordance with national requirements/procedures.

Conclusion:

The Council are presently unable to demonstrate a five year housing land supply, and as such, the presumption in favour of sustainable development applies unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The proposed development scheme does not raise any significant concerns with regards to the impact upon the visual amenity of the locality or upon the residential amenity of existing and future occupiers.

Furthermore, the highways authority have confirmed that they have no objections to the proposed scheme, as the overall scale of the development will result in no severe detrimental impact upon the capacity of the transport network, nor on highway safety. Additionally no objections have been received from Network Rail in respect of increase traffic over the existing railway line crossing and subsequent safety implications.

In addition to the above, the proposal would also assist in providing a contribution towards the Districts housing supply, albeit modest, in a sustainable main urban area location. The scheme would also provide a number of economic benefits, including support for a small house builder and other economic benefits that would be generated during the construction of the dwelling and occupation thereafter.

In conclusion, it is therefore recommended that this application be approved, subject to the planning conditions listed below:

Recommendation: Full Application Conditional Consent

CONDITIONS

- 1. The development hereby approved shall be begun before the expiration of 3 years from the date of this permission.**
- 2. No development shall take place above slab level until samples of the materials and finishes to be used for the external elevations and roof of the proposal have been agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out with those**

materials, unless the Local Planning Authority gives written approval to any variation.

3. This permission shall be read in accordance with the following plans: Site Location Plan Scale 1:1250, Received 12/03/20; Proposed Block Plan, Elevations and Floor Plans, Drawing No. RS/EC/27/10/19/01 Rev B, Received 23/04/20. The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.
4. No development shall take place above slab level until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five 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.
5. No development shall take place above slab level until the following matters have been submitted to and agreed in writing by the Local Planning Authority:
 - (a) Full details of the proposed treatment of the site's boundaries.
 - (b) A phasing scheme for the implementation of the agreed boundary treatment.

The boundary treatment shall be undertaken in accordance with the agreed details.

6. No development shall take place above slab level until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
7. If during the ground excavation works any visibly or olfactory contaminated ground is encountered, the Applicant shall immediately inform the Council's Environmental Protection Officer to allow inspection of the excavations and agree a way forward.
8. The scheme to protect the dwelling from noise associated with the industrial activities on Wigwam Lane and from the adjacent railway, as

detailed on drawing no. RS/EC/27/10/19/01 Rev B (received 23/04/20), shall be completed before the dwelling hereby permitted is first occupied and retained at all times thereafter. Evidence of the agreed measures shall be submitted to the local planning authority prior to occupation of the property.

9. The hereby permitted development shall be carried out in accordance with the Construction Management Plan (received 26/03/20) unless written agreement is given by the Local Planning Authority for any variation.
10. The area shown for car parking and turning on the approved block plan (drawing no. RS/EC/27/10/19/01 Rev A) shall be hard surfaced in a permeable material, before the development hereby permitted is first occupied. The area shall not thereafter be used for any other purpose other than for the parking and turning of vehicles.
11. Pedestrian visibility splays of 2m by 2m shall be provided on each side of the vehicle access. These measurements are taken from and along the highway boundary. The areas of land forward of these splays shall be maintained free of all obstructions over 0.6m above the carriageway level at all times.

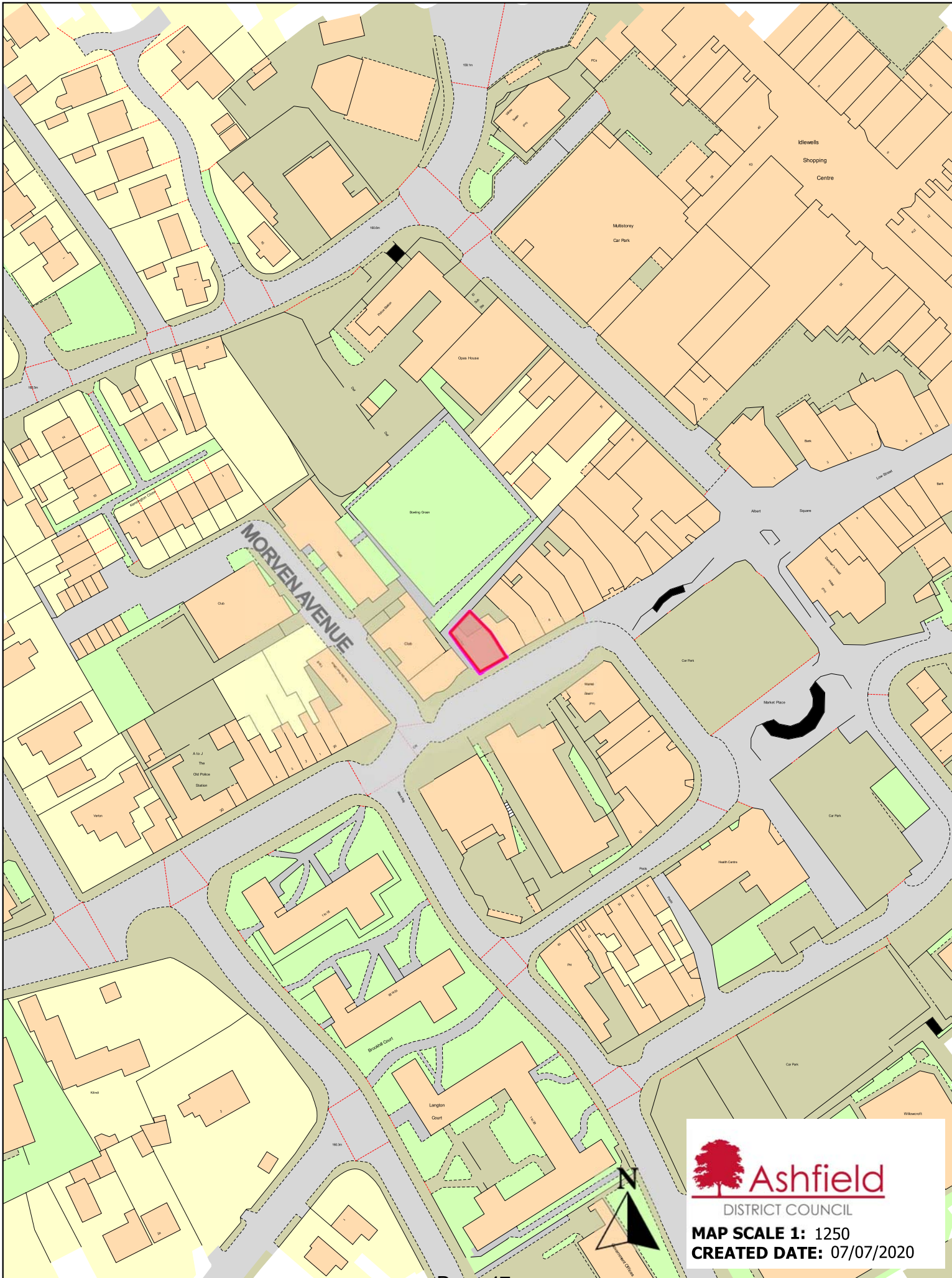
REASONS

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended.
2. To ensure the satisfactory appearance of the development.
3. To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application.
4. To ensure the satisfactory overall appearance of the completed development and to help assimilate the new development into its surroundings.
5. To safeguard the amenities of residents living in the vicinity of the application site.
6. To ensure that the development provides a satisfactory means of drainage, in order to reduce the risk of creating; or exacerbating a flooding problem, and to minimise the risk of pollution.
7. To ensure the site is free from contamination once developed.

8. In the interests of residential amenity.
9. In the interests of residential amenity.
10. To ensure adequate off-street parking, in the interests of highway safety.
11. In the interests of highway safety.

INFORMATIVES

1. The applicant/developer is strongly advised to ensure compliance with all planning conditions, if any, attached to the decision. Failure to do so could result in LEGAL action being taken by the Ashfield District Council at an appropriate time, to ensure full compliance. If you require any guidance or clarification with regard to the terms of any planning conditions then do not hesitate to contact the Development & Building Control Section of the Authority on Mansfield (01623 450000).
2. The contractor must ensure compliance with current legislation on noise and dust control including the Environmental Protection Act 1990 and the Control of Pollution Act 1974. Relevant Codes of Practice set out procedures for dealing with the control of noise on construction and demolition sites are contained in BS5228: 2009 Noise and Vibration Control on Construction and Open Sites.
3. This permission grants consent for the construction of a domestic dwelling. Any business operations undertaken at the site may require further planning permission, and any future business uses at the site may be liable to enforcement action if the correct permissions are not obtained.
4. The safety of railway level crossings and crossing users is of paramount importance. Level crossing safety leaflets should be included in information/welcome packs provided to the new homeowner at the site. These can be provided by Network Rail upon request from the developer or online on the Network Rail website at the following address: <https://www.networkrail.co.uk/communities/safety-in-the-community/levelcrossing-safety/>
5. All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development. As indicated above, the level crossing should remain clear and unobstructed at all times both during and after construction.



COMMITTEE DATE 22/07/2020 **WARD** St Mary's

APP REF V/2020/0220

APPLICANT R Bluff

PROPOSAL Change of Use from A1- Retail to A4 - Bar

LOCATION 16, Brook Street, Sutton in Ashfield, Nottinghamshire, NG17 1AL

BACKGROUND PAPERS A, D, E

App Registered 17/04/2020 Expiry Date 27/07/2020

Consideration has been given to the Equalities Act 2010 in processing this application.

This application has been referred to Planning Committee by Cllr Helen-Ann Smith

The Application

This is an application for a change of use from A1 (Retail) to A4 (Bar)

Consultations

Site Notices have been posted together with individual notification of surrounding residents and relevant consultees. The following responses have been received:

Notts County Council Highways

Due to the parking availability within the town centre, the restrictions and controls in place for local residents and the nature of the use there is unlikely to be any harm to highway safety from the proposed use.

ADC Environmental Health

No objection in principle to the proposed use. However, it is suggested that conditions relating to plant/equipment, amplified & live music, and the opening of windows and doors are imposed. It is also suggested that opening hours are limited to 8pm due to the residential properties above the site.

Resident comments

No comments have been received from residents.

Policy

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

Ashfield Local Plan Review 2002

ST1 – Development

ST2 – Main Urban Area

EV10 – Conservation Areas

SH1 – District Shopping Centre

National Planning Policy Framework 2019

7 – Ensuring the vitality of town centres

12 – Achieving well designed places

Relevant Planning History

There is no relevant and recent planning history at the application site.

Comment :

The site and the application

The application site is a commercial unit located in a terrace of properties. It is located within the Sutton in Ashfield town centre and district shopping centre, as well as within the Sutton Market conservation area.

Residential amenity

There are residential units on the floors above the application site, above the next door unit and a residential unit further along the same terrace. There are also residential properties nearby on Morven Avenue. It is therefore important to consider what impact the proposed change of use would have on the amenity of these residential properties and consider whether conditions could reduce any impact to ensure the use is acceptable. The applicant has stated desired daily opening hours of 12:00 to 02:00, with a closing time of 24:00 on Sundays/Bank Holidays. Meanwhile, the Council's Environmental Health team have suggested that the use should not operate any later than 20:00 on any day.

The unit is located within the Sutton in Ashfield town centre, and although it is not in the very centre, it is within the district shopping centre and directly adjacent to the market square where the principle of a bar use is considered to be acceptable. In close proximity to the site is a ballroom and around the corner on Morven Avenue is a snooker club. There has previously been a public house opposite the site on the corner of the market square and there are several cafes and takeaways nearby. In addition there are various offices and retail units. Therefore, the area is currently lively with a general feeling of activity and liveliness for much of the day and into the evening. The proposed use is appropriate for such a town centre location, and any residents in the area would expect a certain, reasonable level of noise and activity.

Restricting the hours of operation to 20:00 would be too restrictive and would likely make the business unfeasible given that it will rely on customers visiting in the evenings. However, as there are residential properties immediately surrounding the site, should the use operate until 02:00 it is likely that this would lead to a significant level of disturbance above what could even be expected by residents living in this town centre location. There are no similar establishments in the vicinity that open to such late hours. Therefore, it is suggested that more appropriate closing hours would be 23:00 on Fridays/Saturdays and 22:00 on any other day. While residential properties nearby may be aware of customers when they are entering/leaving this would not continue into the very late hours of the day/night and the level of activity and disturbances this would create are considered to be acceptable given the location of the site and the existing level of typical activity in the area.

Due to the fact that there are residential properties directly above and above next door to the unit, it is considered necessary and appropriate for the applicant to undertake a noise assessment to gain a clearer understanding of the potential impact on these properties and provide mitigation where appropriate.

A condition restricting live and amplified music is also considered to be appropriate given that there is a residential property directly above the application site. Music would raise the noise output itself but would also possibly raise the volume of conversations and singing from customers to a level that may result in an unacceptable impact.

Other

No external alterations are included within the application and it is considered that the change of use will have no impact on the conservation area. Alterations to the shopfront or signage that require planning permission or advertisement consent would be assessed through separate applications.

The proposed development represents a new business being brought into the area and would fill a currently vacant unit within the town centre, helping to bring people into the area for social and leisure activities during the day and evening. This can be allocated weight in favour of the proposal.

Given the provision of car parking facilities in the area and the scale of the proposed use there are no concerns in regards to highway safety from the proposal.

Conclusion

The proposed use in principle is considered appropriate for the location of the application site subject to the imposition of conditions to ensure reasonable protection to the amenity of nearby residential properties. It is considered that the proposal represents an appropriate form of development, bringing a new business and leisure activity into the town centre. Therefore, conditional consent is recommended.

Recommendation: Conditional Consent

CONDITIONS

- 1. The development hereby approved shall be begun before the expiration of 3 years from the date of this permission.**
- 2. This permission shall be read in accordance with the following plans: Proposed Floor Plan, received on 17/04/2020; Site Location Plan and Block Plan, both received on 06/04/2020. The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.**
- 3. The use of the hereby permitted development for a bar shall not take place outside of the following hours:**
 - 12:00 to 22:00 Sunday to Thursday & Bank Holidays**
 - 12:00 to 23:00 Fridays & Saturdays**
- 4. No live or amplified music shall be permitted at any time without the written consent of the Local Planning Authority. This shall include, but is not limited to, live music/bands, speaker systems, television systems speakers, microphones and karaoke.**
- 5. Prior to the first operation of the hereby permitted use a noise assessment report shall be submitted to the Local Planning Authority. This report should assess the potential impact to residential properties directly above and next door above with consideration given to any insulation between respective the respective ceiling/floors. The report should detail any mitigation measures, their implementation and results where appropriate to the satisfaction of the Local Planning Authority.**

REASONS

- 1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended.**
- 2. To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application.**
- 3. To safeguard the amenities of residents living in the vicinity of the application site.**
- 4. To protect the amenity of neighbouring residential properties.**

5. To protect the amenity of residential properties in the vicinity of the application site.

INFORMATIVE

1. The applicant/developer is strongly advised to ensure compliance with all planning conditions, if any, attached to the decision. Failure to do so could result in LEGAL action being taken by the Ashfield District Council at an appropriate time, to ensure full compliance. If you require any guidance or clarification with regard to the terms of any planning conditions then do not hesitate to contact the Development & Building Control Section of the Authority on Mansfield (01623 450000).
2. The applicant is encouraged to ensure any noise disturbances to neighbouring residential properties are kept to a minimum. It is suggested that all plant and equipment is maintained regularly, and the applicant is advised to ensure all customers are made aware of neighbouring residential properties when leaving the site late in the evening.

Report To:	PLANNING COMMITTEE	Date:	22.07.2020
Heading:	TREE PRESERVATION ORDER – COVERED RESERVOIR, ADJACENT TO 44 WHYBURN LANE, HUCKNALL		
Portfolio Holder:	DEPUTY LEADER – PLACE AND ECONOMIC GROWTH		
Ward/s:	HUCKNALL WEST		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose Of Report

To advise Members of one objection received in response to the making of a Tree Preservation Order at the covered reservoir adjacent to 44 Whyburn Lane, Hucknall.

Recommendation(s)

Having considered and notwithstanding the objection, the Council proceeds to confirm the Tree Preservation Order without modification, on terms outlined in the report.

Reasons for Recommendation(s)

The Tree Preservation Order is in respect of an area at the covered reservoir adjacent to 44 Whyburn Lane. The trees in question are considered to contribute to the visual amenity of the street scene and from numerous vantage points surrounding this area, and their removal would be detrimental to the character of the area. The trees have been inspected by a fully qualified arboriculturist and the trees have been considered worthy of TPO status due to their sound health and structural stability.

The removal of, or further uneven pruning works to the trees in question, would severely reduce the visual amenity benefit that the trees currently provide. If the trees are not protected then there is no other statutory control other than the issuing of a felling license by the Forest Commission that could limit or control the removal of the trees in question.

It is considered that the placing of an area wide Tree Preservation order in this location is in the interests of public amenity.

Alternative Options Considered (With Reasons Why Not Adopted)

- A) To confirm the Tree Preservation Order subject to modifications; or
- B) To refuse to confirm the Tree Preservation Order.

The alternative options above are not recommended as they would not adequately protect the trees and the visual amenity value within the area. All trees recommended for protection make a contribution to the amenity of Whyburn Lane.

Detailed Information

On the 30th January 2020, a formal notice was provided to interested parties advising them the Council had made a Tree Preservation Order in respect of an area at the covered reservoir land adjacent 44 Whyburn Lane, Hucknall.

The Legal power to make a Tree Preservation Order is drawn from the Town and Country Planning Act 1990, and in particular section 198(1) of the Act which states:

‘If it appears to a Local Planning Authority that it is expedient in the interest of amenity to make a provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order’.

Amenity

Trees located within this area are prominent in siting from numerous vantage points along the street scene of Whyburn Lane, Hucknall. As a result, the trees are considered to have a high amenity value as they are a positive feature within the street scene and the wider surrounding area therefore affording great weight to the protection of these trees.

Letter of objection

The Council have received one letter of objection from a neighbouring property in relation to the Tree Preservation Order being placed, and the issues are as follows:

- The trees in this location are stunted and are limited in offering any aesthetic improvement.
- The reduction in height of some of the trees along the perimeter so far has improved light to my property and visibility for dog walkers/cyclists along the unlit section of Whyburn Lane (south of the TPO).
- Works that have already been carried out have reduced the height of the trees which has improved the visual amenity of the site.

Officers Comments

The initial Tree Preservation Order, placed on 30th January, reflected the urgency to ensure public visual amenity value was safeguarded from opportunistic tree felling. The objection to the TPO seems to be based on the fact that the TPO will not allow for future appropriate maintenance of the trees in question, which is not correct. Should anyone wish to reduce the height of existing trees in this location an application would be required which should include the justification for any proposed works to the trees and therefore a full BS5837 tree survey along with an arboricultural impact assessment and arboricultural method statement. Once this information is submitted the local planning authority can fully assess the requirement to carry out any works and any unwarranted impact on the visual amenity of the site. After visiting the site, the Council's tree officer noted some trees which have been felled. The trees form an area wide clustering that comprises of all land at the redundant covered reservoir adjacent to 44 Whyburn Lane, Hucknall. The trees are of a significant prominence along the street scene of Whyburn Lane and can also be viewed from numerous vantage points to the west of the site. The Tree Preservation Order does not stop any future works to trees but helps to regulate proposed works in the interests of preserving the high visual amenity value. In line with the objection received, it is considered that the trees located in this area due to their large size and prominent location, warrant protection under a TPO.

Options available to the committee:

Members are reminded that they must properly consider the above issues before coming to a fully reasoned conclusion as to whether to:

- 1) Confirm the Tree Preservation order without modifications; or
- 2) To confirm the Tree Preservation Order with modifications; or
- 3) To refuse the Tree Preservation Order.

In doing so, Members must clearly give reasons as to why they have reached their decision.

Implications

Corporate Plan:

To support the Council's place aspirations by using TPO legislation to proactively ensure the ingredients for a good quality of life are in place and ensure attractive neighbourhoods are protected.

Legal:

Legal issues are identified in the report.

Finance:

No financial implications resulting from this report.

Budget Area	Implication
	None

General Fund – Revenue Budget	
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:	
Risk	Mitigation

Human Resources:

No implications

Equalities *(to be completed by the author):*

No implications

Other Implications:

None

Reason(s) for Urgency (if applicable):

None

Background Papers

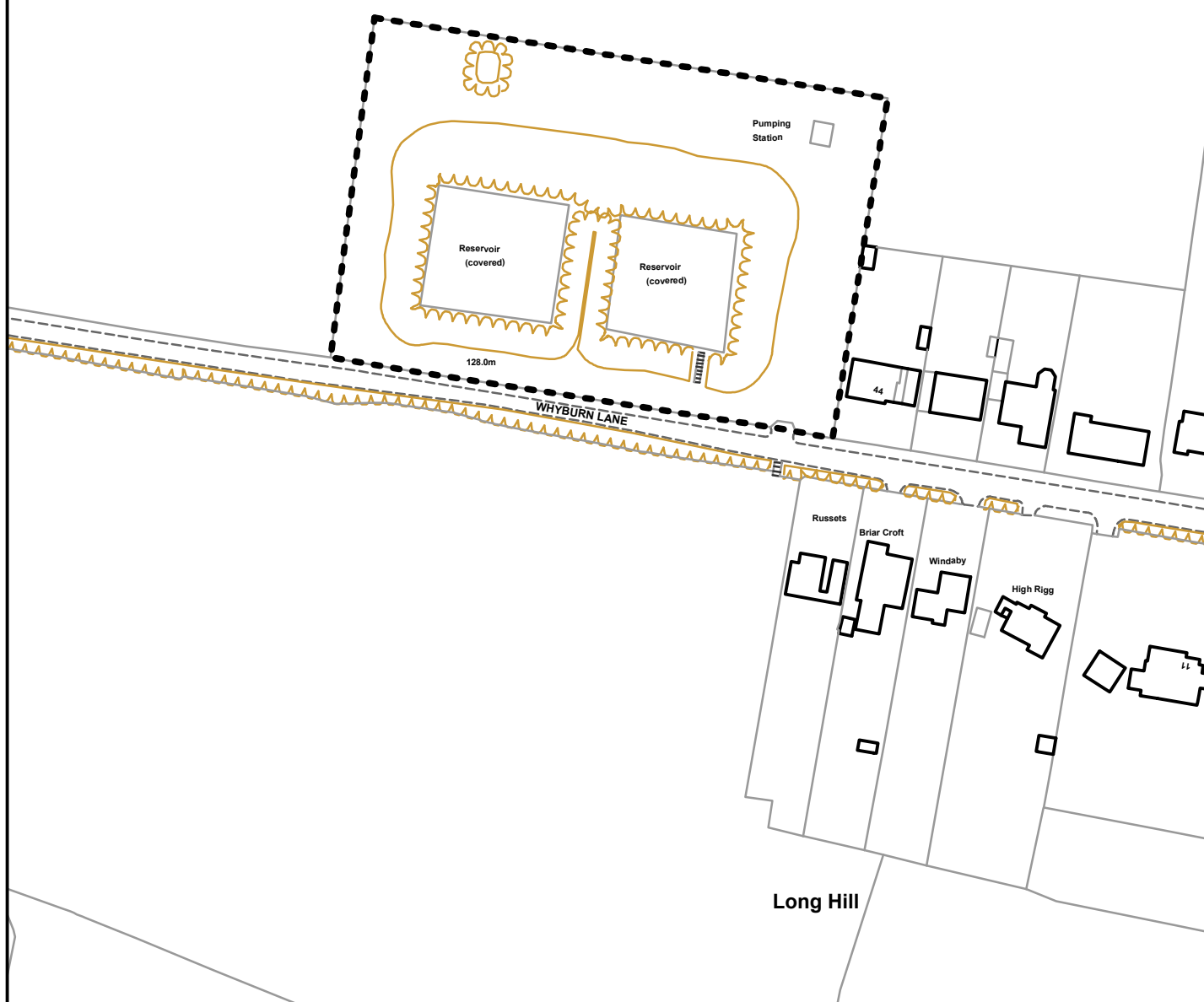
None

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Covered Reservoir Adjacent 44 Whyburn Lane
Hucknall, NG15 6QN

TPO/2020/0300

30 January 2020



Scale: 1 to 1,250

Ashfield District Council
Urban Road
Kirkby in Ashfield
Nottingham NG17 8DA

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