



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).