

PLANNING COMMITTEE – 15 FEBRUARY 2022

Application No:	21/01830/FUL
Proposal:	Change of use of agricultural land and extension to the existing wood fuel production business, retention of earth bunds, retention of concrete retaining wall/clamp, retention of re-sited biomass boiler, wood drying kiln and roof cover over (Retrospective).
Location:	Site Adjacent 'The Old Grain Store', Old Epperstone Road, Lowdham, Nottinghamshire
Applicant:	Messrs S & R Jackson.
Registered:	28 August 2021 Target Date: 20 October 2021
	Extension of Time: 17th February 2022
Web Link	https://publicaccess.newark-sherwooddc.gov.uk/online-applications/advancedSearchResults.do?action=firstPage

This application is before the Planning Committee for determination because a District Councillor is joint applicant with his son.

The Site

The site lies to the south of Old Epperstone Road and is accessed by a small track which also serves The Old Grain Store which is currently occupied by Sharmans Agricultural Ltd and lies to the north of the site. To the south and east of the site are fields and to the west is South Sherrards Nurseries and the grounds of Element Hill Farm. Further beyond, residential development approximately 80m to the north-west of the site exists and also beyond the main highway approximately 140m to the north.

The part of the site to which this application relates forms an extension to the existing wood fuel production business site. It is washed over by the Nottingham-Derby Green Belt and its lawful use is agricultural land. There is a steel portal building located at the northern end of the existing wood fuel production business site that is used in connection with the business which, it is understood, was originally constructed for agricultural purposes. In addition to this building, at the opposite end of the extended site, there is a new building along with other relocated structures and a wood chip clamp. Earth bunds which have been formed around part of the overall site exist for which permission is sought for their retention retrospectively.

Relevant Planning History

16/01271/FUL- Planning permission granted for the use of land and building and siting of container, biomass boiler and Wood Chip Clamp in connection with wood fuel production business (retrospective, resubmission) – permission 01.03.2018

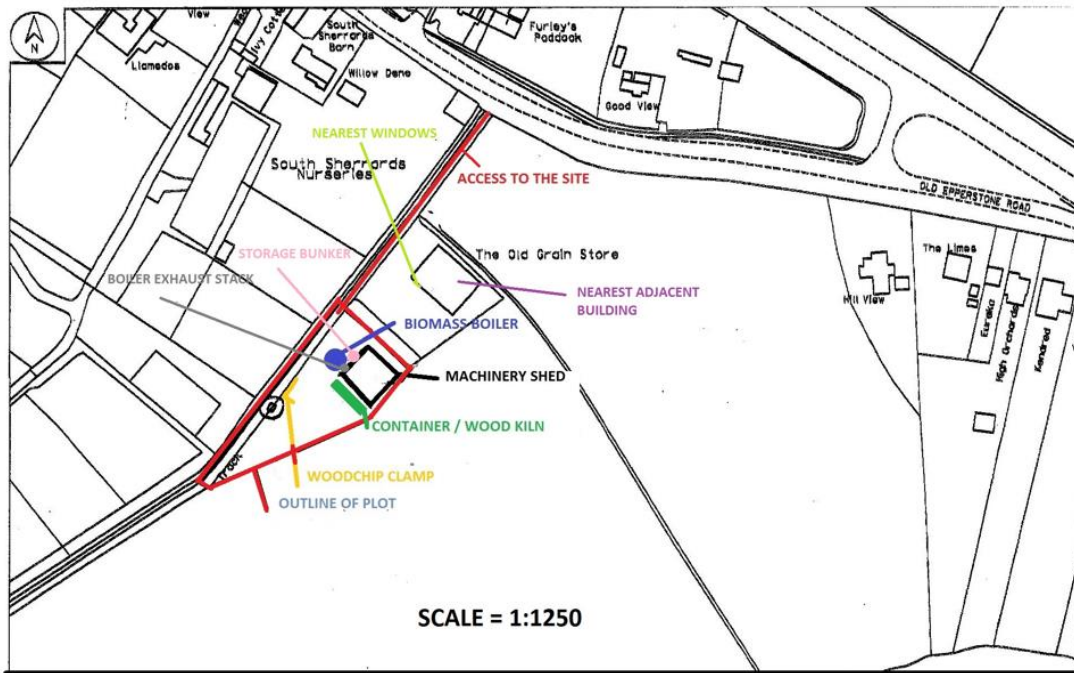
16/00490/FUL – Use of land and building and siting of container, biomass boiler and Wood Chip

Clamp in connection with wood fuel production business (retrospective) (withdrawn)

13/00496/AGR – Proposed steel frame building (prior approval not required, 14.05.2013)

Evolution of the site since 2016 and the Proposed Development:

Planning permission was granted in 2018 under reference 16/01271/FUL for the use of land and building and siting of container, biomass boiler and Wood Chip Clamp in connection with wood fuel production business. The extent of the application site and site layout at that time as per the submitted plans was as follows:



As the series of aerial photographs from 2017 until present for the site below show, the extent of the land used in association with the applicant's business has increased which is also reflected in the site location plan that accompanies this current revised application.



May 2012



July 2017



March 2019



September 2019



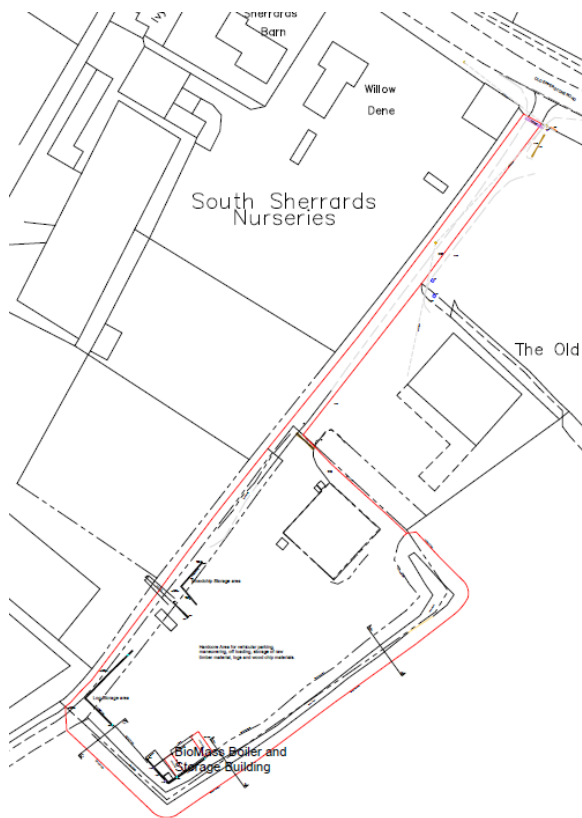
August 2020



April 2021

As the aerial photos above show, the yard area has been increased by around 60% at some point between 2017 and 2019. Earth bunds have been formed around the south and south eastern as well as the south western boundaries to contain or enclose the subject site. The submitted topographical survey show these to range in height from between 2 to almost 3 metres in places. The use of the site and the working activities that are carried out upon the site appear to have sprawled across a wider parcel of agricultural land. The structures and building to which retrospective consent is sought can be seen in the south western corner of the extended site. It appears apparent from the aerial photographs above that the extended site is well utilised.

The extent of the application site as it is presently is shown on the revised site location plan.



Extract of revised Site Location Plan (NTS)

The application as initially submitted seeks consent for the 'resiting of biomass boiler and wood drying kiln and erection of roof cover structure (Retrospective)'. According to the initially submitted planning statement, *'the structure itself consists of 2 containers sited on a concrete slab. The biomass boiler and log splitter are located within the area between the 2 containers. The container adjacent to the southern boundary is an implement and equipment store and the other container is the wood drying kiln.'*

The biomass boiler, wood drying kiln and log splitter, which are all housed beneath a roof cover structure, has been operating in its current position since July 2019 according to the initially submitted application form.

During the consideration of the application and following a site visit, further information has been requested and agreement has been sought from the agent to amend the description of development to capture a number of other undertakings that have been carried out as part and parcel of the change of use that has occurred which also require the benefit of planning consent.

In addition to the above, a number of further queries were raised with regard the workings being carried out upon the site and also with regards the information on the application forms and ownership certificates. As a result revised plans, a revised planning statement and an amended application form has been submitted the notable differences on the form being:

- Amended description as explained above; and
- Applicant name amended from S Jackson to Messrs S & R Jackson. It has been confirmed that the land owner is Cllr Roger Jackson, who is now included as being applicant and therefore the issue raised with regards the correct certificate of ownership has been addressed and Certificate A has rightfully been completed.

List of Revised Plans and documents

- Revised Site and Block Plan Drawing no. 21-1993 Rev 2B received 9 December 2021
- Revised Existing Floor Plans and Elevations Drawing no. 21-1993 Rev 1B received 9 December 2021
- Concrete panel elevations and floor plans and typical bund cross sections Drawing no. 21-1993 Rev 3 received 9 December 2021
- Topographical Survey Drawing No. PO2094_2D_DRG1 received 9 December 2021
- Planning Supporting Statement Dated November 2021 received 9 December 2021
- Revised planning Application form received 9 December 2021.

Departure/Public Advertisement Procedure

Occupiers of thirteen properties have been individually notified by letter. A site notice has also been displayed near to the site.

Upon receipt of the revised details a further re-consultation exercise has been undertaken.

Planning Policy Framework

The Development Plan

Newark and Sherwood Amended Core Strategy Adopted March 2019

Spatial Policy 4B: Green Belt Development

Core Policy 9: Sustainable Design

Core Policy 10: Climate Change

Core Policy 13: Landscape Character

Allocations and Development Management DPD Adopted July 2013

Policy DM5: Design

Policy DM7: Biodiversity and Green Infrastructure

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Planning Practice Guidance (online resource)

Consultations

Lowdham Parish Council – Initially did not object (comments made 3.09.21) but then made subsequent comments on 10.09.21 stating;

'Members of the Parish Council have become aware that there are complaints about the operation of the biomass facility; that the operator may not be following the conditions in the original grant of planning permission and that the re-siting of the facility, now the subject of the retrospective consent sought, may have made matters worse for neighbouring properties. On that basis, the parish council objects to the proposal.'

Further comments were then also made on 8 October stating, *'No comment on the Planning Issues – Abstain'*

The Parish Council wrote again as a result of the recent reconsultation exercise to confirm that they *do not object* to the proposals.

NCC Highways – Initial comments- The proposal will have no impact on the existing highway network. Therefore, we have no highway comments.

Comments on the revised information-

'Before previous application for the site was approved under ref. 16/01271/FUL, the applicant had confirmed that the business is in operation Monday- Friday and that a tractor sized vehicle is used daily, along with a 3.5t van. This usage was deemed acceptable to the Highway Authority, and no highway objections were raised.

Subject to no increase in the sizes of vehicles using proposed access to the there are no highways objections to this proposal.

Please note that there is a Public Footpath LowdhamFR12 located at the access off Old Epperstone Road. The applicant is reminded that the public footpath shall remain unobstructed at all times, which means no gates shall be erected across the route of the footpath. Should this application or the site operation of the site have any effect on this public footpath you should contact our Rights of Way Officer: sue.jarzewski@viaem.co.uk for further comments to ensure a safe and practical passage along the public footpath is safeguarded by an appropriate condition or informative.'

Trent Valley Internal Drainage Board – No comments received.

NSDC Environmental Health Officer – comments are summarised below:

Complaints had been received at the time of the original planning permission relating to smoke and odour which were investigated and ultimately closed as a statutory nuisance was not occurring. Further monitoring has been undertaken since the biomass boiler has been relocated to its current position with regard to smoke nuisance and also noise, summarising the current location of the biomass burner is the most suitable.

In relation to noise, EH continue to investigate noise from machinery used in connection with the production of wood chippings and wood fuel logs. Mitigation might be appropriate but EH advise an independent assessment of noise from all site machinery to identify appropriate noise mitigation measures should be carried out.

Nine letter registering support of the proposal has been received. Their comments are summarised below:

- We have never had a problem with smoke or noise
- Despite initial complaints when the business first started, we have not been disturbed by the operations at that site for years.
- Enormous effort has been made to minimise the impact of the business on the area.
- Barely visible from Old Epperstone Road or the nearby footpath.
- We live on old Epperstone road and experience no problems from the old grain store
- Re-siting of the biomass boiler has certainly led to a reduction of smoke and odour to the point where we are not now aware when it is in use

Three letters of representation have also been received from local residents raising objections to the proposal. Their comments are summarised below:

- Industrial development in the Green Belt;
- Why is it referred to as a biomass boiler as it is a biomass burner;
- Neighbouring properties are suffering with smoke issues and noise disturbance from the site;
- Smoke creates an unpleasant smell and burns during anti-social hours;
- This offensive and non-agricultural industrial activity will always be a Public Nuisance to its immediate neighbours;
- The application involves a brand new building
- The site is within 20 metres of a watercourse, despite how the application form has been completed.
- Surely there are more employees?
- Concerns raised with regard smoke, noise, and other nuisances.
- Concerns raised that local people's life style and health would be adversely affected

Comments of the Business Manager

There are a number of matters that require careful consideration in the assessment of this application which are discussed in turn below.

Principle of Development and Green Belt considerations

The site lies outside the defined village envelope for Lowdham and therefore lies within the Nottingham-Derby Green Belt, where relevant Green Belt policies apply. As the site is in the Green Belt, carefully scrutiny is therefore required.

Spatial Policy 4B of the Amended Core strategy sets out where new housing development could be acceptable and states that any other development within the Green Belt that is not identified in the policy, as is the case here, shall be judged according to national Green Belt policy.

Whether or not the proposal is 'inappropriate development' in the Green Belt and whether or not any 'very special circumstances' exist.

Paragraph 147 states that 'inappropriate development' is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states when considering any planning application, LPAs should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Having carefully considered the case advanced by the applicant, it is my opinion that there are no meaningful 'very special circumstances'.

The NPPF does allow for limited development within the Green Belt. The limited types of development that are permissible in the Green Belt are set out in the NPPF at paragraphs 149 with regard the 'construction of new buildings' and 150 which lists certain 'other forms of development' providing they do not conflict with the purposes of including the land within the Green Belt and preserves the openness.

The earlier permission was considered to represent appropriate development within the Green Belt, with the storage container, wood chip clamp and biomass boiler being located close to and remaining proportionate to the existing building.

Construction of a new building

Paragraph 149 states that a LPA should regard the construction of new buildings as inappropriate in the Green Belt. However one of the exceptions are buildings required for agricultural and forestry use.

A number of structures have been constructed or relocated upon the extended wood fuel production business site, which was previously in agricultural land use. These structures include a biomass boiler and wood drying kiln, which are sited upon a concrete base, and the erection of a roof cover structure over, which in all intents and purposes comprise a 'building'.

Whether or not the building is required for an agricultural use?

The applicant as part of the previous application expressed that the wood fuel production business is diversification of the agricultural business.

In terms of the workings of the wood fuel production business and its relationship to the applicant's farming business, the applicant has advised that the raw material timber comes from various local sources. Some of the timber comes from the applicant's land at Gonalsen, some comes from other farms and in woodlands, some from local authorities and site clearances together with some from domestic properties and emergency highway clearance when trees are blown over. We have also been advised by the applicant that at this time of year [January] roughly 50% of the raw timber comes through the applicant's farm business and the remainder from clients land.

The wood processing activities or use that is carried out upon the site is described in the revised application form as 'pulping, drying and logging of felled timber in conjunction with farm business' (section 14) and 'B1 (c) Light industrial use' (Section 18).

In light of the above and in Green Belt terms it is a struggle to accept that the building is as a matter of fact required solely for an agricultural purpose, which leads to the conclusion that the subject building represents an inappropriate form of development, which by definition is harmful to the Green Belt and should not be approved except in very special circumstances as rehearsed above.

Other forms of development

Paragraph 150 of the NPPF lists certain 'other forms of development' that can be considered to be appropriate in the Green Belt, with the added proviso that they do not conflict with the purposes of including the land within the Green Belt and preserves the openness. The other forms of development include the following:

Change of use of land - One form of 'not inappropriate' development listed in paragraph 150 is material changes in the use of land under paragraph 150(e). Paragraph 150(e) then goes on to give examples of the type of changes of use which can be considered not to be inappropriate and the Inspector in the case of appeal ref APP/H1840/W/19/3235302 identified that because of the use of the words "such as...", 'the list is clearly not intended to be an exhaustive' (see paragraph 8 of appeal decision).

The change of use that has occurred (from agricultural to extended wood fuel production business site) could therefore be regarded as appropriate provided it preserves the openness of the Green Belt and does not conflict with the purpose of including land within it. Before going on to consider openness in the main, the other aspects of the proposal are considered which are part and parcel of the change of use that has occurred.

The forming of earth bunds- Permission is sought as part of this application to retain earth bunds that have been formed around parts of the extended site, the creation of which constitutes an 'engineering operation' and are taken as being part and parcel of the development and the change of use of land that has taken place. These earth bunds measure between 2 to 3 metres in height and have become overgrown by greenery.

'Engineering operations' are also listed in paragraph 150, (criteria b) as another form of development that is appropriate in the Green Belt provided it preserves the openness of the Green Belt and does not conflict with the purpose of including land within it.

Wood chip clamp- Permission is also sought to retain a wood chip clamp that has been constructed upon the extended site in the south western corner. It is neither strictly speaking a building it itself nor has it been constructed as an engineering operation, regardless it constitutes development that forms part and parcel of the change in use that has occurred and the structure requires the benefit of planning permission.

Having now established the 'other forms of development' that have taken place at the site, consideration is given to whether the proposal as a whole preserves the openness of the Green Belt and also whether it conflicts with the purposes of including the land within the Green Belt.

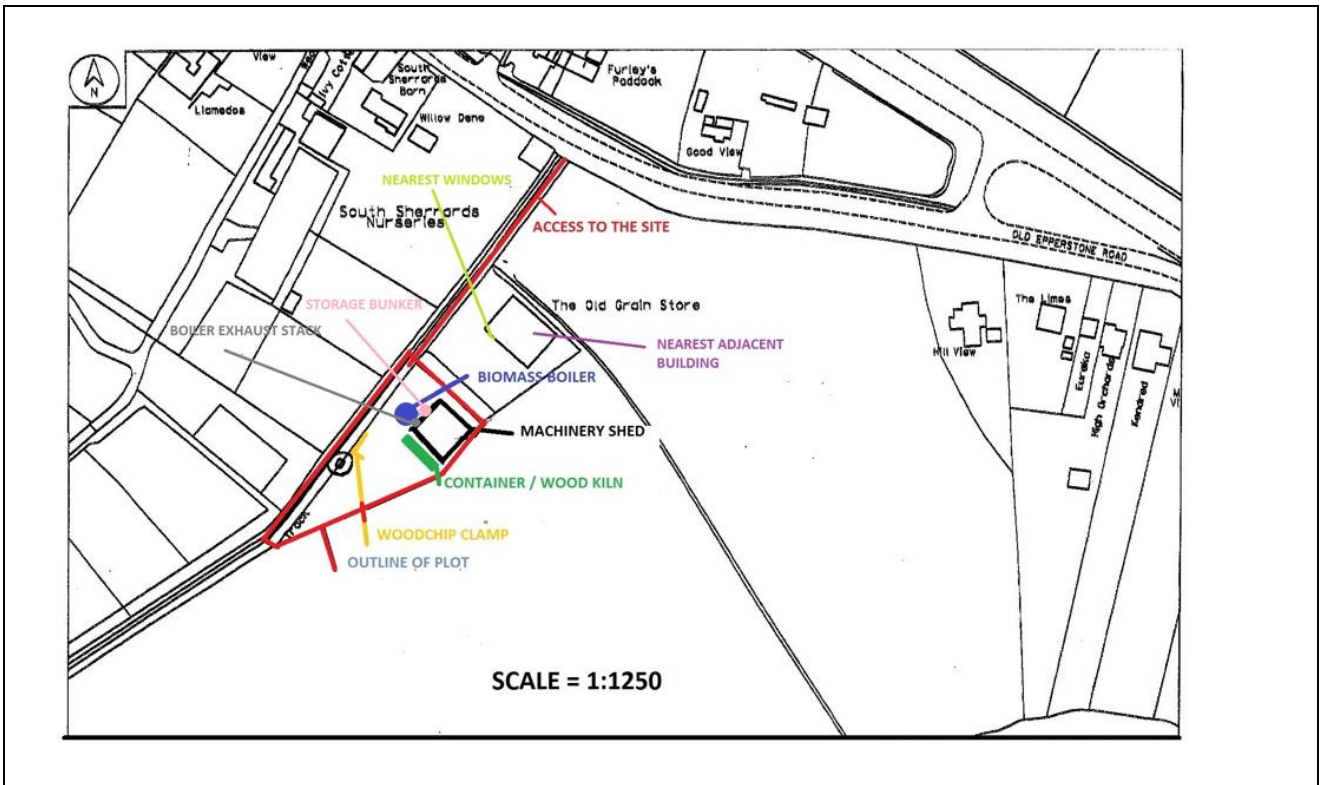
Effect on Green Belt Openness

The NPPF at paragraph 137 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 138 lists the purposes that Green Belt seeks to serve:

- a) to check the unrestricted sprawl of large built up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

As rehearsed above the extent of the wood fuel production business site has undeniably been increased. Earth bunds have been formed around some of the outside perimeter of the extended site and a wood chip clamp has been erected. The land that makes up the extended part of the wood fuel production business site was previously agricultural land. The applicant has explained in paragraph 4.1 of the Supporting Planning Statement that this parcel of land was retained when the adjoining field to the south and east of the site was sold as they considered it '*necessary to complete the development*'.

Site Layout as part the approved 2018 planning application.



The 2018 approved application site equates to approximately 2650 sq metres (excluding the access track to the site).

As shown on the photographs below taken from the earlier 2016 submission which was approved in 2018, the previous location of the biomass boiler (indicated in blue on the plan above) and wood kiln (shown in green on the plan above) were both located immediately adjacent to the square machinery shed (shown outlined in black).



The location of a wood clamp was also indicated in yellow on the plan above. The three structures were previously considered to be relatively small in scale and found not to be overly prominent from the road given their relationship and proximity to the old grain store building. They were however considered to be structures that are highly visible from the surrounding fields and the nearly public footpath that runs along a field boundary to the south and climbs up to a plateau.

The structures and the use were found at that time to be acceptable because it was understood at that time that they would remain part of an agricultural business that was diversifying and would

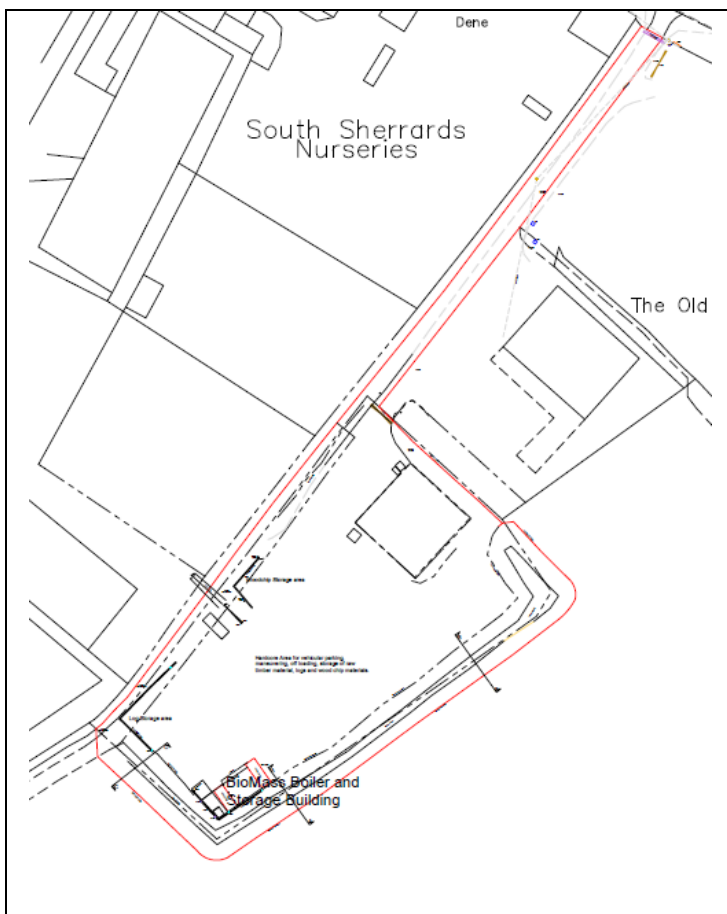
not harm the visual amenity of the area because they were located close to the existing agricultural building and are relatively modest in scale. The structures were therefore found to be acceptable in Green Belt terms as they were considered proportionate additions or alterations to the existing building under what is now paragraph 149 c).

Two of the three structures (the wood kiln and biomass boiler) have been relocated to a position some 60 metres or so away from the former old grain store building, upon land that is beyond the previously approved site, the lawful use of which is agricultural. One wood clamp remains more or less in its approved location which is approx. 25 metres away from the building, however a second wood chip clamp has been erected in the south western corner of the site.

It is understood that the wood kiln container has been cut in half to form two separate structures and the biomass boiler remains the same, all of which are located in a new position. An open sided building described as a new roof cover structure, has been constructed over these resited structures which measures approx. 16.5m x 7 m and in terms of its height measures 4.15m to its ridge.

The extent of the subject parcel of land in question and the subject structures/buildings are shown on the extract of the submitted revised plans below:

Extract of revised submitted plans



The extended application site equates to approximately 4317 sq metres (excluding the access track to the site) which equates to an increase in area of around 60% when compared to the consented site area.

The Courts have found that openness is a broad policy concept and a matter of planning judgement. It has also been found that the visual quality of landscape is not in itself an essential part of openness.

The resited structures and roof canopy building constructed in the southern corner of the extended site do not fall within any of the listed exceptions set out in paragraph 149. They are not buildings for agriculture and forestry (exception a), can no longer be regarded as a proportionate extension or alteration of a building, (exception c) as they had previously been considered because of their very close relationship to the building against which they were previously positioned against. Furthermore they cannot be regarded as a replacement building (exception d) or as limited infilling or the redevelopment of previously developed land (exception g), because they are sited on what constitutes agricultural land which is unlawfully being used as an extended wood fuel production business site. Exceptions b, e, and f are not considered relevant.

The wood kiln measures approx. 6.6m x 2.5m and in terms of height measures 2.8m. The storage building is open sided and the roof over the storage area measures approx. 16m x 6.7m and in terms of height measures 4.15m to the ridge. The biomass boiler, sited under the roof canopy, measures 1.6m x 2m and in term of height measures 6.55m to the top of the flue chimney.

Their siting, upon a concrete slab, on land which as part and parcel of a change of use of which has involved the encroachment of development into the countryside which is agricultural land that is also designated and protected Green Belt land are not found to be acceptable as they do not preserve the openness of the Green Belt. There is therefore strong justification for opposing the development when considered as a whole as a matter of principle.

Whilst the structures and building within the extended site may still be regarded as relatively small scale structures, they constitute inappropriate development that is by definition harmful to the Green Belt which should not be approved except in very special circumstances. The applicant has not advanced a case to argue that 'very special circumstances' exist, nor is one considered to exist.

Turning to consider the preserving of openness and the purposes of including the land within the Green Belt, the subject parcel of land, which is being used as an extension to the wood fuel production business site, may well be located in a natural depression and close to a row of trees along one of the site boundaries in a wider undulating rural landscape. Whilst this may help to soften the impact of proposal upon the wider countryside, this does not hide the fact that in spatial planning terms, incremental encroachment of Green Belt land arising from the proposal has occurred. Case law has found that development that is inappropriate within the Green Belt, by definition, cannot be made acceptable by landscaping. The scheme reduces and causes harm to the openness of the Green Belt, one of the essential characteristics of Green Belt land which planning policy seeks to protect. The proposal is also contrary to one of the purposes of the Green Belt which is to assist in safeguarding the countryside from encroachment [purpose c), listed in paragraph 138].

The proposal as a whole is therefore contrary to Spatial Policy 4B of NSDC's Core Strategy and fails to meet the requirements of Part 13, in particular paragraphs 149 and 150 along with paragraph 138 c) of the NPPF and no very special circumstances are considered to exist to overcome the harm.

Impact on the Visual Amenities of the Area and landscape character

The site lies outside of Lowdham village and is surrounded by fields, some of which are relatively low-lying as well as being located close to a number of residential properties. The site is visible from the public realm, although vegetation along the boundary with Old Epperstone Road offers some screening of the site from the road.

The submitted planning statement explains by way of justification that the siting of the structures adjacent to the former grain store building were found not to be satisfactory, not only due to congestion around the main machinery building, but also due to a complaint received from a neighbouring property with regard to smoke nuisance. Subsequently, the applicant decided to relocate the structures and equipment to the furthest most location on the site in the south eastern corner. This justification advanced by the applicant is considered to not amount to very special circumstances.

Whilst it was previously found that the steel building was the most prominent structure upon the site, the workings of the site and the associated storage of machinery, vehicles, containers and wood piles when viewed as a whole has sprawled across a greater extent of land which has made it more noticeable. Whilst the earth bunds that have become overgrown by greenery around part of the site may help to mitigate some of this visual harm, the bunds themselves cause harm. The extended yard and structures/materials within it are still highly visible from the more elevated parts of surrounding fields and also visible from the public footpath that runs close by on higher land as the photograph below shows.



It is clearly apparent that the business has sprawled and evolved more so over a greater expanse of land since the earlier planning application was considered and the use of the land and activities taking place no longer appear to be part of an agricultural business, as previously they may once allegedly have been.

The industrial nature of the use that is being carried out across an extended site which is contained by earth bunds that have been formed as engineering operations has undeniably harmed the character of the landscape.

Policy DM5 requires new development to reflect the local distinctiveness and the character of the surrounding landscape, which in this instance the site is located, according to the Landscape Character Assessment, in Mid Nottinghamshire Farmlands Policy Zone MN41: Lambley Village Farmlands.

In accordance with Core Policy 13, development should also have regard for the landscape character of the area which in this instance is considered to be in very good condition and of high sensitivity. The policy action is 'Conserve'.

As such, it is concluded that the structures upon the land that encroach into the undeveloped wider landscape harm the distinctiveness and character of the area.

The proposal therefore conflicts with the requirements of DM5 and Core Policy 13 as the development would have a harmful impact upon the character of the area.

Impact upon Residential Amenity

Policy DM5 of the DPD states that development proposals should ensure no unacceptable reduction in amenity including overbearing impacts and loss of privacy upon neighbouring development.

The site lies some distance from the nearest residential development – the closest residential dwelling is approximately 80m to the north-west of the site, however a business (Sharman's Agricultural Ltd) is run from The Old Grain Store, immediately adjacent to the site, and as such their amenity must also be considered.

Historically there have been a number of complaints regarding smoke from the biomass boiler, which the Council's Environmental Health team have been monitoring and investigating for some time.

The submitted planning statement explains by way of justification that the siting of the structures (biomass boiler and wood drying kiln) adjacent to the former grain store building were found not to be satisfactory, not only due to congestion around the main machinery building, but also due to a complaint received from a neighbouring property with regard to smoke nuisance. Subsequently, the applicant decided to relocate the structures and equipment to the furthest most location on the site in the south eastern corner. This end of the extended site is also where the new wood chip clamp has been erected.

In response to the consultation exercise carried out, nine letters of support have been received. That said however two letters of objection have been received and smoke disturbance is raised as a concern.

The site has been visited on a number of occasions and no smoke has been witnessed being emitted from the biomass boiler chimney. Notwithstanding this, a local resident has reported and recorded numerous occasions when smoke has been emitted from the chimney.

The Environmental Health team have been consulted and with regard to smoke have advised the following:

'Records show ... eight complaints relating to smoke/odour all of which were investigated and ultimately closed. Statutory nuisance was not able to be determined and EH worked with the applicant to reduce the smoke emissions. This was done by extending the stack and monitoring moisture levels of the fuel wood and ensuring that the appliance is operated correctly. Since this happened no further complaints were received.

Since the biomass burner was re-sited to the current ... at the back of the site, EH have received complaints from one resident regarding smoke and noise. Following multiple visits and assessment by EH officers, statutory nuisance in relation to the smoke was not able to be substantiated and the complainant notified. The complainant has stated that the situation has improved greatly more recently and has since agreed that the smoke is no longer the difficulty.

In relation to smoke emissions, ...the current location of the biomass burner is the most suitable location on this site due to it being the furthest distance from the majority of domestic residences. With the predominant wind direction being South Westerly, emissions from it are able to reach appropriate height to achieve adequate dispersion of exhaust gasses in order that statutory nuisance is avoided.

The above is subject to the biomass burner being continued to be operated as previously agreed and in line with conditions relating to the original 16/00490/FUL ... in relation to the burner. Furthermore, whilst operating as agreed, it is possible that from time to time, and depending on weather conditions, occasional and localised smoke / smoke smell events from the site might occur and reach existing residential property.'

Taking into account the above advice from the EHO and also being mindful about how smoke emissions from the biomass boiler in its former location has been controlled previously via planning conditions, as well as by other environmental legislation such as and including the Clean Air Act 1993, a smoke disturbance reason for refusal could not be justified.

In terms of other forms of disturbance, concern has been raised about noise emanating from equipment being used at the site. It is understood that a wood chipper is used that chops up wood and throws chippings that is piled up against one of two concrete chipping clamps. One of these wood chip clamps already has the benefit of consent and is located within the previously approved site (its location is indicated in yellow on the plans that accompanied the earlier application). As the following photograph taken during a site visit at the start of September shows, it is in active use.



A second wood chip clamp has however been constructed in the south western corner of the extended site, the nearest neighbouring property to which is Element Hill House (this second clamp is just visible on the far left of the first photograph). At the time of the site visit, no wood chips piles were seen up against this second wood chip clamp which forms part of this proposal. As

the photograph below shows, some building materials and logs were piled up against the wood chip clamp and weeds were growing through. This suggests that it had not been used recently prior to the site visit, early September 2021.



A further site visit took place at the start of November 2021 and the photograph below shows bags of logs and other raw material timber assembled in front of the wood chip clamp at that time.



In light of the above it appears questionable as to whether any noise disturbance allegedly emanating from the site has recently been created by working activities (i.e. by a wood chipper) in this corner of the site.

In terms of other noise generating machines and working activities, the applicant has explained that a log splitting device is located between the biomass boiler and wood kiln that is housed under the roof cover in the south western corner of the site. This has been seen and heard operating during a recent site visit with colleagues from Environmental Health.

With regard to the concerns that have been raised in relation to noise generated from equipment that is being used at the site impacting upon the residential amenity of neighbouring properties, the Environmental Health team has advised the following:

'... the site is subject to an ongoing investigation by environmental health relating to noise from machinery used in connection with the production of wood chippings and wood fuel logs.

Initial enquiries focused on noise from an industrial wood chipping machine. Initial subjective and objective assessments of noise levels from the wood chipping machine were carried out. This suggested a likelihood of adverse to significant adverse impact depending on operating mode, and that noise mitigation measures to reduce noise levels would therefore be indicated.

As part of further investigations, a number of potential noise control measures were identified as below. Some measures will of course be more effective than others depending on the circumstances, and measures could be used in combination to achieve a specified reduction in noise levels / impact:

- *Mode of Operation - limiting the duration of use of the machine within a specified curfew.*
- *Distance Attenuation - locating the machine further away from sensitive noise receptors.*

- *Machine Orientation - the machine generates higher levels of noise in the direction of the in-feed hopper and discharge points. The machine could be oriented to ensure these elements are facing away from sensitive noise receptors.*
- *Barrier Attenuation - A barrier of suitable height, length and construction, and located at a suitable distance from the machine.*

Investigations have also included ongoing efforts to try and resolve complaints informally. The business agreed to implement time restrictions on use of the wood chipping machine on a trial basis in line with the limits initially specified by environmental health i.e. the chipper restricted to operational hours of 9am until 12pm with a limit of five hours in total per week and a maximum of two hours daily, and a specified machine orientation when in use.

Environmental health has recently reviewed the current situation with the business and complainant. There is nothing to suggest the business has not been operating the wood chipping machine outside of the agreed limits. However, the business has indicated the trial restrictions on use of the wood chipping machine are too inflexible, and it appears the restriction may not therefore be compatible with their business model.

As part of the recent review the complainant has also indicated the restrictions on use of the wood chipping machine have not resolved their concerns about noise. The review also identified that use of an industrial wood saw is an additional source of noise that was not identified as forming part of the original complaints. The saw has been seen and heard operating and generates relatively high noise levels. It does appear that part of the ongoing noise complaints therefore includes use of this machine, and its use would not have been restricted by the business in the same way as the wood chipping machine. Use of the saw will therefore need to be factored in to the overall assessment of noise in the context of the statutory nuisance investigation, and those investigations remain ongoing.

However, where planning matters are relevant, given the character of the area and the nature of wood processing using industrial machinery, there will be the potential for harm to residential amenity as a result of noise without suitable noise mitigation measures. In such instances, we would expect an independent assessment of noise from all site machinery to identify appropriate noise mitigation measures.

We expect it is likely that a physical barrier e.g. earth bund, in addition to other measures would be required in order to adequately mitigate noise from the operation of machinery in connection with the production of wood fuel and wood chippings. However, we appreciate that potential noise mitigation measures may require the benefit of planning permission, and may need to be the subject of a wider planning related assessment.'

Given the significant concerns identified with regard to harm to the Green Belt and character of the area as rehearsed above, further information in the form of an independent Noise Impact Assessment, as recommended by the EHO, has not been requested from the agent at this time to avoid abortive costs to the applicant given the recommendation of this application is for refusal.

In the absence of a Noise Impact Assessment it has not been adequately demonstrated that any noise disturbance emanating from workings at the site can be satisfactorily addressed and therefore for this reason it is recommended that the application is refused.

In terms of visibility of the proposal from neighbouring residential properties, there is a high hedge separating the site from Sherrards Nurseries and Element Hill House. This screens the extended site from the neighbouring properties to the north-west, but only when the trees are in leaf.

Nonetheless, given the distance between the site and these neighbouring properties, the proposal is unlikely to have any adverse impacts in respect of overshadowing, overlooking or overbearing impacts.

The closest building beyond the site is occupied by Sharmans Agricultural Ltd to the north east and views are obscured by the intervening Old Grain Store building which is occupied by the applicant. The extended site is unlikely to have any adverse impacts in respect of overshadowing, overlooking or overbearing impacts also.

Impact upon the Highway

Spatial Policy 7 of the Core Strategy seeks to ensure that vehicular traffic generated does not create parking or traffic problems. Policy DM5 of the DPD requires the provision of safe access to new development and appropriate parking provision.

The Highways Authority raise no highway objections provide there are no increase in the sizes of vehicles using the present site access arrangements. The applicant has confirmed that this is the case and it is concluded that the proposal will not have an undue impact upon highway safety.

Other Matters

The proposal includes the resiting of a biomass boiler which as per the application submission is a GlenFarrow GF210 Biomass Boiler, with 210 kW peak output capacity ad 70% efficiency. The boiler works on a positive air pressure with the combustion chamber. Air is controlled to the fire via variable speed fans. The boiler is not an exempt appliance and needs to be operated in accordance with the Clean Air Act 1993.

The exhaust (or chimney) stack is 6.55 m in height above slab level and is 200mm in diameter. Should Members be minded to approve the planning application, and whilst the boiler would have to continue to be operated in accordance with the Clean Air Act, it is considered that this is a matter that can be controlled by conditions as was the case before in the previous planning consent.

The public consultation responses received raised an issue with the watercourse which runs to the western edge of the site. Trent Valley Internal Drainage Board have been consulted and have not submitted any comments, however they raised no objection to the previous proposal and consequently it is not considered this matter requires any further consideration.

Conclusion

Planning permission has previously been granted under reference 16/01271/FUL for the use of land and building and siting of container, biomass boiler and wood chip clamp in connection with wood fuel production business.

The site has been extended into agricultural land which constitutes a change of use of land and various structures have been constructed or relocated upon the extended site which form part and parcel of the change of use that has occurred. In addition to the construction of a building, earth bunds have also been formed around some of the extended site boundaries which require the benefit of planning permission as they are engineering operations.

Whilst the fuel production business is already in situ, the appropriateness of what has been carried out and is the subject of this retrospective proposal still needs to be carefully considered.

The site falls within the Green Belt and the NPPF sets out that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances (paragraph 147). Paragraph 148 states when considering any planning application, LPAs should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The applicant has not advanced a case to argue that 'very special circumstances' exist and the LPA does not consider there are any.

Paragraphs 149 set out the limited types of 'new buildings' that can be regarded as appropriate and paragraph 150 list certain 'other forms' of not inappropriate development with the caveat that such other forms of development preserve Green Belt openness and do not conflict with the purpose of including land within it.

The resited structures and roof canopy building constructed in the southern corner of the extended site do not fall within any of the listed exceptions set out in paragraph 149 as discussed earlier.

The scheme reduces and causes harm to the openness of the Green Belt, one of the essential characteristics of Green Belt land which the planning policy seeks to protect. The proposal is also contrary to one of the purposes of the Green Belt which is to assist in safeguarding the countryside from encroachment [purpose c), listed in paragraph 138].

The proposal as a whole is therefore contrary to Spatial Policy 4B of NSDC's Core Strategy and fails to meet the requirements of Part 13, in particular paragraphs 149 and 150 along with paragraph 138 c) of the NPPF.

Furthermore, the structures encroach into the undeveloped wider landscape, harming the distinctiveness and character of the wider countryside. It is therefore concluded that the proposal conflicts with the requirements of DM5 and Core Policy 13 as the development would have a harmful impact upon the character of the area.

Lastly, Environmental Health has concerns regarding the noise emanating from the business and advise a noise assessment and mitigation will be required. Such an assessment has not been provided, or requested, due to the proposal being, in principle, contrary to local and national policies. It has therefore not been possible to assess the noise implications of the development.

On the basis of the above, it is concluded that the proposal fails to comply with Part 13 of the NPPF in terms of its impact upon the Green Belt and therefore the application is recommended for refusal.

RECOMMENDATION

That full planning permission is refused for the following reasons:

01

Spatial Policy 4B of Newark and Sherwood District Council's Core Strategy 2019 states that other development in the Green Belt not identified in this policy will be judged according to national Green Belt policy. Policy DM5 requires new development to reflect the local distinctiveness and the character of the surrounding landscape. Core Policy 13 states that development should have regard for the landscape character of the area.

The development, by definition is inappropriate failing to comply with any of the exceptions set out within Part 13 (Green Belt) of the National Planning Policy Framework. Inappropriate development will only be justified when very special circumstances outweighing the harm by inappropriate development exists.

The industrial nature of the use that is being carried out across an extended site and the structures upon it, along with the uncharacteristic earth bunds that have been formed as engineering operations that contain the site have, in the opinion of the Local Planning Authority, cumulatively and undeniably harmed the distinctive character of the landscape and fails to preserve the openness of the Green Belt.

In the opinion of the Local Planning Authority the proposal is contrary to the purposes of including land within the Green Belt, namely [purpose c), listed in paragraph 138 which is to assist in safeguarding the countryside from encroachment] and very special circumstances to outweigh the harm are not considered to exist. In addition, the proposal as a whole is also contrary to Spatial Policy 4B of NSDC's Core Strategy and fails to meet the requirements of Part 13, in particular paragraphs 149 and 150 along with paragraph 138 c) of the NPPF. The development also conflicts with the requirements of DM5 and Core Policy 13 as the development would have a harmful impact upon the landscape character of the area.

02

In the opinion of the Local Planning Authority it has not been adequately demonstrated that any noise disturbance emanating from workings at the site can be satisfactorily addressed and any required level of mitigation is unknown. As such it is considered that the Applicant has failed to demonstrate that there would be no adverse noise impacts arising from the development or that these might be adequately mitigated in this sensitive location. The proposal is therefore contrary to the NPPF which forms a material consideration as well as the Development Plan namely Policy DM5 (Design) of the Allocations and Development Management DPD (adopted July 2013).

Notes to Applicant

01

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website www.newark-sherwooddc.gov.uk/cil/

02

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. However the District Planning Authority has attempted to work positively and proactively and suggested revisions/submission of additional information with the application. These revisions/additional information has not been forthcoming. As such, the reasons for refusal have not been negated.

03

List of refused plans and documents:

- Revised Site and Block Plan Drawing no. 21-1993 Rev 2B received 9 December 2021
- Revised Existing Floor Plans and Elevations Drawing no. 21-1993 Rev 1B received 9 December 2021
- Concrete panel elevations and floor plans and typical bund cross sections Drawing no. 21-1993 Rev 3 received 9 December 2021
- Topographical Survey Drawing No. PO2094_2D_DRG1 received 9 December 2021
- Planning Supporting Statement Dated November 2021 received 9 December 2021
- Revised planning Application form received 9 December 2021.

BACKGROUND PAPERS

Application case file.

For further information, please contact Helen Marriott on x5793

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Lisa Hughes
Business Manager- Planning Development

Committee Plan - 21/01830/FUL

