



Report to Planning Committee 11 August 2022
 Business Manager Lead: Lisa Hughes – Planning Development
 Lead Officer: Lisa Hughes, Business Manager – Planning Development, x 5565

Report Summary			
Application Number	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		
Applicant	Messrs S & R Jackson.	Agent	Mr Derek Kitson (Derek Kitson Arch. Tech. Ltd)
Web Link	Messrs S & R Jackson.		
Registered	28 August 2021	Target Date	20 October 2021 Extension of Time: 19 August 2022
Recommendation	Refusal		

This application is before the Planning Committee for determination, in accordance with the Council’s Constitution, because a District Councillor is joint applicant with his son.

1.0 Background

The application was presented to Planning Committee on 15th February 2022, where it was initially resolved to not refuse the application in accordance with the Officer’s recommendation. It was then resolved to defer the application to enable the applicant to undertake a Noise Impact Assessment and for any mitigation works to also be explored.

The noise report has been completed and the report is updated accordingly. In addition, following deferral, there has been correspondence received from a number of parties which

are discussed below. The report has been updated throughout compared to when it was previously presented. It has therefore not been amended with bold text and crossing out to minimise confusion.

2.0 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.

3.0 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)

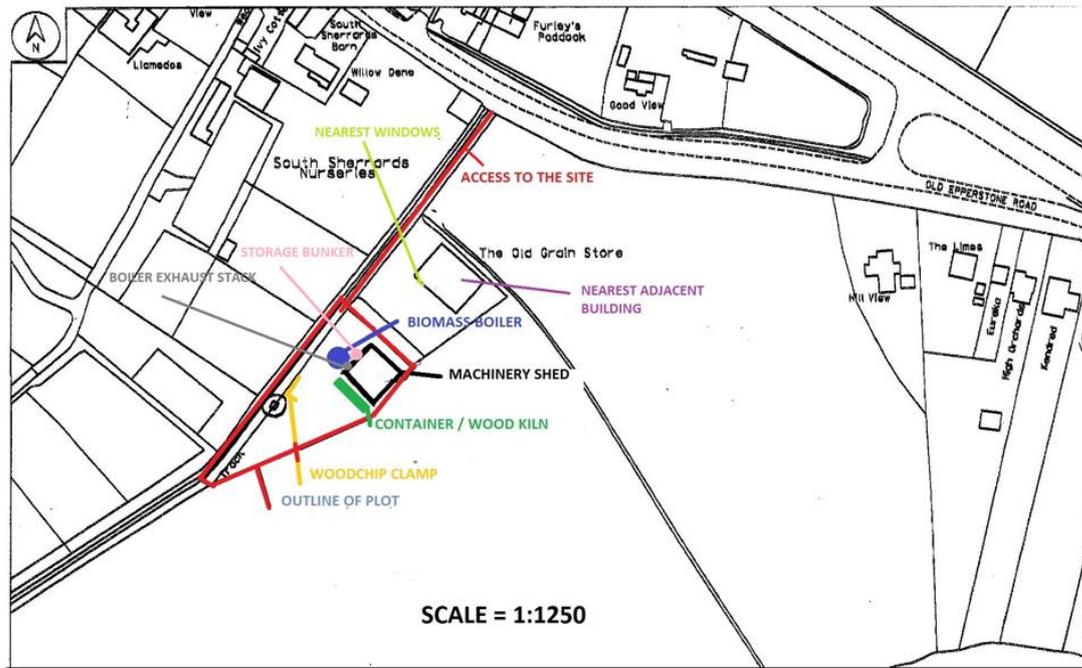
13/00496/AGR – Proposed steel frame building (prior approval not required, 14.05.2013)

4.0 The Proposal

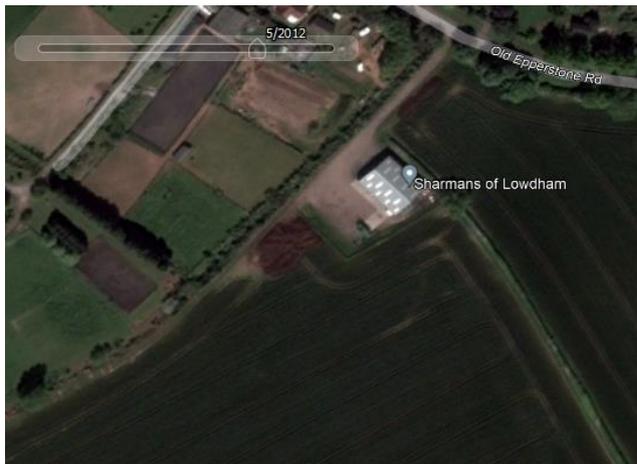
In order to understand the proposal, it is necessary to understand the development of the site in relation to the above planning history.

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 application.



May 2012



July 2017



March 2019



September 2019



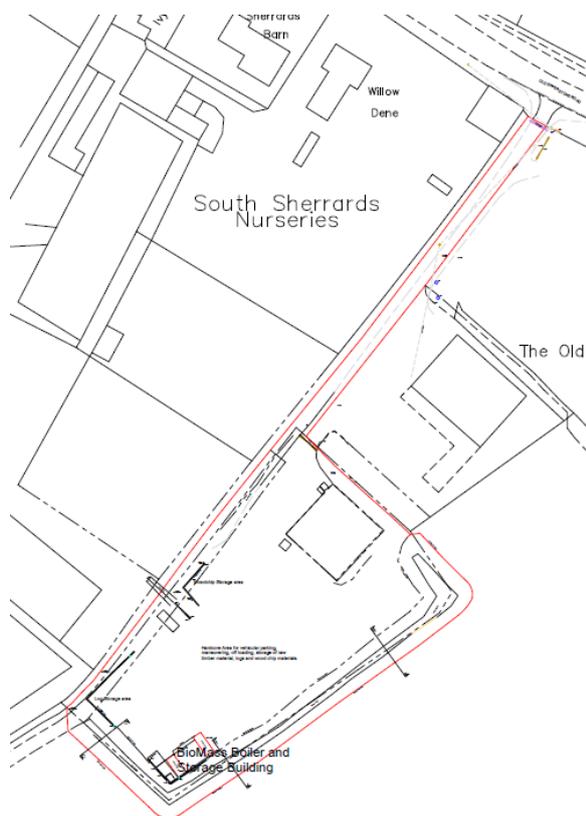
August 2020



April 2021

As the aerial photos above show, the yard area has been increased by around 63% (excluding access road - approved site area was approximately 2650m², proposed site application area is approximately 4317m²) 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 have sprawled across a wider parcel of agricultural land than that previously approved. 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.

Since the above was presented to Committee, a noise report and further information has been submitted for consideration by the agent.

List of Revised Plans and documents

- Existing Floor Plan & Elevations Drawing No. 1A received 26 August 2021
- Revised Site and Block Plan Drawing no. 21-1993 Rev 2B received 9 December 2021
- Proposed Floor Plan Drawing no. 5A received 29 June 2022
- 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
- Proposed Concrete Panel elevations Drawing No 6A received 29 June 2022
- Proposed Site and Block plan received 29 June 2022
- Noise Impact Assessment – Dynamic Response, June 2022 received 29 June 2022.

5.0 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.

Since original notification, two further re-consultation exercises have been undertaken. The most recent in relation to the amended plans and noise report received 29 June 2022.

6.0 Planning Policy Framework

The Development Plan

Newark and Sherwood Amended Core Strategy Adopted March 2019

Spatial Policy 4B: Green Belt Development

Spatial Policy 7: Sustainable Transport

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

Policy DM12: Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Planning Practice Guidance (online resource)

7.0 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 2021 stating, *'No comment on the Planning Issues – Abstain'*

The Parish Council wrote again as a result of the re-consultation exercise in January 2022 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 (December 2021)-

'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 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:

December 2021 - 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.

July 2022 – welcome the findings of the noise report which confirms their previous findings. Regarding the findings of the chipper, is it possible to condition this to prevent it being used on site?

Nine letters registering support of the proposal have 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.

In addition, following deferral a number of further letters have been received with a number of points which include validity of the previous permission, air quality concerns/smoke concerns (potential breach of conditions attached to the 2016 permission) and noise concerns.

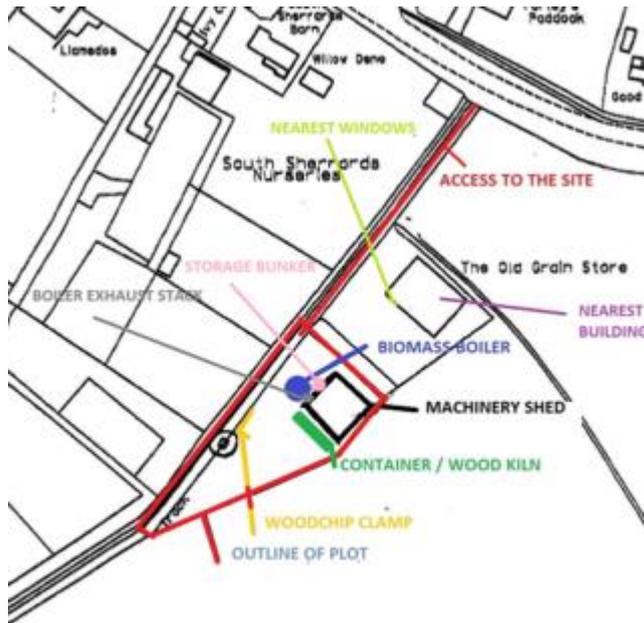
8.0 Comments of the Business Manager – Planning Development

The National Planning Policy Framework (NPPF) promotes the principle of a presumption in favour of sustainable development and recognises the duty under the Planning Acts for planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. The NPPF refers to the presumption in favour of sustainable development being at the heart of development and sees sustainable development as a golden thread running through both plan making and decision taking. This is confirmed at the development plan level under Policy DM12 of the Allocations and Development Management DPD.

Principle of Development and Green Belt Considerations

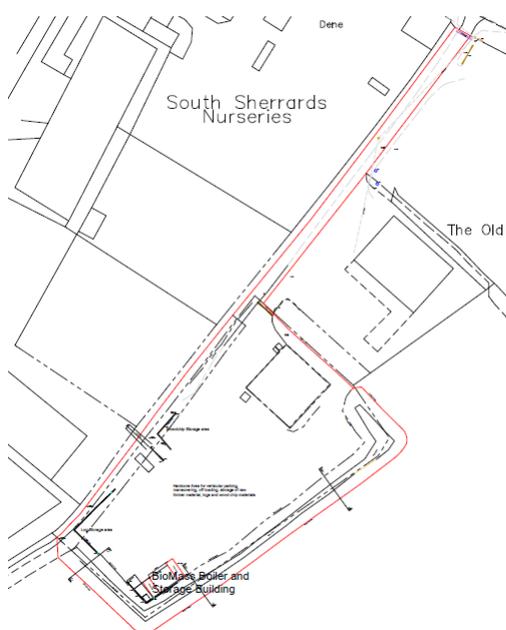
The site lies outside the defined village envelope for Lowdham and therefore lies within the Nottingham-Derby Green Belt, where relevant Green Belt policies apply. Spatial Policy 4B of the Amended Core strategy sets out where new housing development could be acceptable and states that any other development 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.

As noted within the planning history, planning permission has been granted for part of the site to be used for *“the use of land and building and siting of container, biomass boiler and Wood Chip Clamp in connection with wood fuel production business”*. This area therefore has a permission for this use and associated buildings:



SCALE = 1:1250

The Green Belt consideration therefore relates to the additional land, an increase of approximately 1200m²:



With regards to the 2018 permission (which was granted following a 2016 decision of the Planning Committee), at that time it was considered the business proposed enabled a diversification of the applicant's agricultural (farm) business ("*...we process wood from our own farm and surrounding farms tidying up dead and dangerous trees...*") and was therefore considered to be appropriate in terms of Green Belt policy. No conditions were attached to the 2016 decision, nor does the description of development restrict the use of this development so that it could only be used in relation to an agricultural diversification.

However, this application clearly identifies that the wider site's use is not principally related to agriculture. The applicant advises raw material timber comes from various local sources. Some from the applicant's land at Gonalsen and other farms and woodlands, some from local authorities and site clearances together with some from domestic properties and emergency highway clearance when trees are blown over. It is estimated roughly 50% of the raw timber comes through the applicant's farm business and the remainder from clients' land. No threshold, through appeals or case law, is understood to exist to define the percentage over which an alternative use results in a change of use. There will be many different dependencies in each case. However, any alternative use (or source of wood) must clearly be significantly less than 50% to enable it to be considered as an agricultural use as opposed to a change of use. Notwithstanding this, the applicant clearly considers that it has resulted in a change of use by virtue of the description provided as part of the description of development on the application form. The starting point for assessment with this proposal is therefore very different to the previous permission.

The NPPF identifies that new buildings within the Green Belt are inappropriate. Exceptions to this principle are provided, however the built development (biomass boiler, wood drying kiln with roof cover structure over and wood clamp) do not fall within any of the listed exceptions. Paragraph 147 and 148 of the NPPF state:

"inappropriate development' is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances".

There is no definition in statute or elsewhere as to what might comprise a very special circumstance. For a development, a very special circumstance might be one circumstance or a combination of circumstances. However, the bar for a matter (or matters) to represent a very special circumstance is a more demanding test than exceptional circumstances.

Paragraph 148 states:

*"[W]hen considering any planning application, local planning authorities (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.**" [author's emphasis].*

The buildings are therefore inappropriate and very special circumstances that outweigh this harm, in accordance with the above paragraphs, is required.

In addition to the buildings, there has been a change of use of the land as well as the construction of earth bunds. Paragraph 150 of the NPPF lists certain 'other forms of development' that can be considered appropriate in the Green Belt which includes both change of use as well as engineering operations. However, the NPPF states they are only considered appropriate when they do not conflict with the purposes of including the land within the Green Belt and preserves the openness.

The NPPF, 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.

It is only necessary to be in conflict with one of the five purposes in order to fail to comply with Green Belt policy.

The earth bunds at a height of between 2 and 3 metres in height have, by their nature reduced the site's openness. Whilst landscaping has grown over them, this does not remove, minimise or mitigate this harm. Many appeals have confirmed that soft landscaping cannot make an inappropriate development, appropriate. Additionally, their construction has resulted in encroachment into the countryside.

The earth bunds are therefore inappropriate and very special circumstances that outweigh this harm is required.

In relation to the use of the site. Paragraph 150 e) of the NPPF provides examples of uses that are acceptable. Listed are changes of use for outdoor sport or recreation, or for cemeteries and burial grounds. These uses are acceptable because they are considered to maintain the openness. Appeal and case law has confirmed that buildings associated with such uses e.g. a crematorium is inappropriate and very special circumstances must exist that outweighs that harm in order for the development to be considered acceptable.

The use of the land cannot occur without the buildings and structures being provided, they are integral to one another. It is therefore concluded that the use of the land fails to preserve its openness and conflicts with c) above.

The structures and building, earth bund as well as the change of use of land therefore 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.

The proposal is therefore contrary to Spatial Policy 4B of the 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 Open Countryside and the Visual Amenities of the Area

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 form 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 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. In addition, Policy DM10 of the DPD (Pollution and Hazardous Materials) identifies developments that have the potential for pollution should take account of and address their potential impacts, with any impacts balanced against the economic and wider social need for the development. Mitigation should be provided where necessary.

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 (Sharmans Agricultural Ltd) is run from The Old Grain Store, immediately adjacent to the site and, as such, their amenity must also be considered.

Historically, as well as more recently, 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.

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 to not 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 notification letters, 9 letters of support have been received. However, at the time of presenting the previous report, two letter of objection had been received and smoke disturbance raised as a concern. Since deferral, further objections have been received from one party in relation to smoke and particulates.

The site has been visited on a number of occasions by Environmental Health Officers 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. Evidence of smoke has also been provided to the Council, albeit this was in its previous location.

The Environmental Health team have been consulted and with regard to smoke have advised (response provided prior to the previous report being presented) 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.'

With regards to the response from Environmental Health (EH), the boiler falls below Environmental Permitting Regulations and thus a license is not required or approval from EH for the boiler. With regards to a statutory nuisance, EH Officers have used their professional knowledge and experience to determine a nuisance has not occurred and would not occur subject to complying with appropriate conditions and in accordance with the equipment's guidelines. A statutory nuisance would only arise, in accordance with Section 79 of the Environmental Protection Act 1990 if smoke emitted is deemed to be prejudicial to health or causing a nuisance. Notwithstanding this, it is still feasible that amenity issues (harm) could arise/be present.

The conditions that were attached to the 2018 permission do not 'bite' because of the relocation of the boiler outside of the original application site. However, the applicant has made available recordings that have been taken of the moisture content of the wood. These show a selection of dates between January and July this year of between 10 and 20%. EH Officers have advised that more smoke would arise with the greater amount of moisture in the wood. The moisture recording at the time the equipment was serviced (shown on the certificate) was 23% (for both force dried and mixed wood), all of which tie in with what was

viewed by Officers on site. Additionally, the certification to benefit from the Renewable Heat Incentive also requires the wood to meet these moisture limits.

As noted within the neighbour responses, the equipment was moved due to a complaint from a neighbour regarding the impacts from smoke and odour. Whilst the relocation has resolved the majority of harm for this neighbour, the latest response indicates that there are still occasions when the operation can be smelt, although smoke is not a problem. However, the relocation has resulted in complaints from a different neighbour.

The NPPF, paragraph 188 identifies decisions should be assessed on whether the proposal is an acceptable use of land, rather than trying to control emissions where these are subject to separate pollution control regimes. In this case the development is below environmental permitting levels (thus not subject to separate pollution control) and therefore consideration can (and should) be given to impacts, noting that consideration was given to such impacts with the previous application resulting in a number of conditions being attached. This approach is reflected within Policy DM10 with mitigation required to be provided where necessary. As detailed above, complaints regarding smoke have been received and EHO colleagues have visited the site on a number of occasions (unannounced) to view this but have not been able to, at those times, identify harm. More recently, however, the focus of complaints has been in relation to particulates. Information has been provided by a neighbour regarding particulate readings on a number of occasions since late 2021.

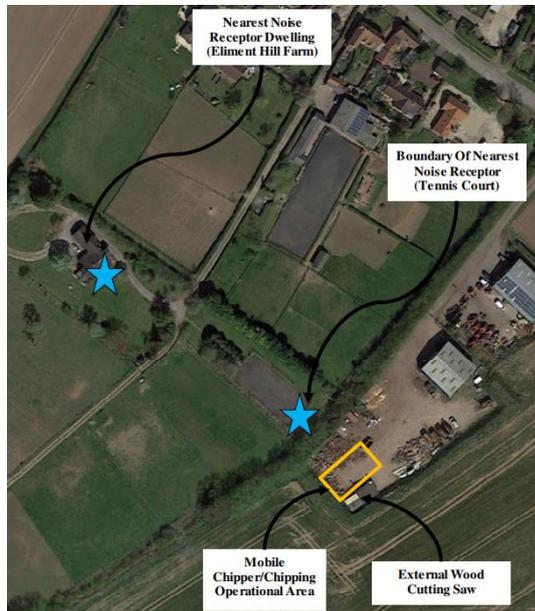
From the information provided, it appears, on the face of it, that these instances are relatively rare. However, it is not known how frequently readings are undertaken and whether if, other readings are taken, all others show acceptable levels. Additionally, it is not known the accuracy of any equipment used.

Environmental Health advise that statutory emission limits relating to combustion of wood fuel do exist, provided by the Local Authority Pollution Prevention and Control (LAPPC) regime for appliances rated at 20-50MW and larger. However, the [Glen Farrow GF210] biomass boiler, used by the applicant, falls well outside this regime because of its small size - rated at just 210kW. Accordingly, there is no requirement to impose those limits under that regime.

Smaller combustion appliances can be regulated for smoke, grit and dust under the Clean Air Act, but this legislation does not serve to mitigate fine particulate matter emissions i.e. PM2.5 which is the focus of concern. Additionally, the rate at which fuel can be burned in the appliance does not exceed the threshold specified by the Clean Air Act. With regards to the overarching air quality regime (Local Air Quality Management), this places a general obligation on all local authorities to regularly review and assess air quality in their areas, and to determine whether or not national air quality objectives are likely to be achieved. Where a new point source is introduced, such as a biomass boiler, it is possible to determine potential impact on air quality (in the context of LAQM) using the DEFRA's Biomass Emissions Screening Tool. EH have used this tool and determined it is unlikely that LAQM objectives would be exceeded, and that a full air quality assessment was not required.

In addition, the GF210 design has been independently tested for emissions and has an 'emissions certificate' under the Government's Renewable Heat Initiative (RHI) scheme. Whilst particulates have been shown to be recorded at unsatisfactory levels by the neighbour,

it would appear through other legislation [to planning] that measures are in place to prevent harm from smoke and particulates for larger capacity machinery. It would therefore indicate that these thresholds are in place as the starting point at which controls are needed to prevent detrimental impact on health. All of these considerations, along with consideration to the number of occasions that recordings have been provided, on balance the impact on amenity from particulates is acceptable.



In terms of other forms of disturbance, concern has been raised about noise emanating from equipment being used at the site and the Committee's previous consideration of the application was to defer the application for a noise survey to be undertaken. This survey, discussed later, highlights mitigation is required and also that noise from the wood chipper is such that it is causing a nuisance. However, mitigation for the chipper is prohibitively expensive and therefore the applicant is no longer going to use it on site. It is also noted from the report, paragraph 5.12 that an acoustic barrier would be needed at 3.75 metres which would further add built form into this Green Belt location. The wood chipper is portable and therefore timber can be chipped at source, at a client's property. It would be reasonable to impose a condition, should permission be granted preventing the wood chipper from being operated on site at any time.

In terms of other noise generating machines and working activities, a log splitting device (saw) 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 by Environmental Health colleagues.

The noise survey has assessed the impact of the sawing equipment upon the nearest noise receptor (Element Hill Farm) at the façade to the dwelling and also at this property's tennis court.

Without any mitigation to the sawing equipment, the survey details there would be between an adverse and significant adverse impact at the residential façade. However, with an absorptive acoustic barrier in front of the saw bay at an approximate height of 2.8 metres, the report details the noise levels will be reduced to approximately 36 db $L_{Aeq}(1 \text{ hour})$.

The barrier, as shown on amended plans (drawing number 6A) whilst of some height, in the context of Green Belt considerations, would be positioned within the overhang of the building's roof.

It would be necessary in order to ensure that amenity is protected in relation to noise, that any sawing is undertaken only when the barrier is closed. Should planning permission be granted, a condition to this effect would be required.

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 Highway Safety

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 at 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. It also benefits from the renewable heat incentive and, as such, is required to be serviced annually. The Applicant's agent has submitted details of a recent service undertaken which confirms the equipment is operating as it should.

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.

A request by a neighbour has been made to the Planning Casework Unit (PCU) asking for the application to be called-in for the Secretary of State's consideration. The Town and Country Planning (Consultation) (England) Direction 2021 requires local planning authorities to refer an application to the Secretary of State for consideration as to whether it should be called-in under certain circumstances. In relation to Green Belt development, the Direction details:

"...development which consists of or includes inappropriate development on land allocated as Green Belt in the development plan and which consists of or includes-
(a) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
(b) any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt"

In this case, following the request, the PCU have been very clear that if the resolution is one of approval, that the Council is not able to make the decision without referral.

9.0 Implications

In writing this report and in putting forward recommendations officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

10.0 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 bar for 'very special circumstances' is a more demanding test than exceptional circumstances.

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 re-sited 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 applicant has not advanced a case to argue that 'very special circumstances' exist, nor are any considered to exist. 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 Policy DM5 of the Development Plan Document and Core Policy 13 of the Amended Core Strategy as the development would have a harmful impact upon the character of the area.

In relation to smoke and air quality, the development falls below Environmental Permitting legislation and therefore a permit is not required. The boiler falls below and outside of thresholds within the Clean Air Act and limits within the Local Authority Pollution Prevention and Control regime. A license is required each year to benefit from the Renewable Heat Incentive. Whilst some harm from readings has been indicated by a neighbouring party, it would appear that thresholds within separate legislation are therefore to prevent a detrimental impact on health. On balance, therefore, any impacts from smoke and air quality are considered acceptable.

Lastly, whilst noise has been raised as a complaint. The submitted noise report details that with mitigation for the saw, when it is in operation, that noise levels will be such that harm does not arise. However, with regards to the wood chipper, this will no longer be operated on site due to mitigation required not being viable and sustainable.

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

11.0 Reason for Refusal

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 exist.

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.

Informatives

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 to minimise the number of outstanding issues as far as possible.

03

List of refused plans and documents:

- Existing Floor Plan & Elevations Drawing No. 1A received 26 August 2021
- Revised Site and Block Plan Drawing no. 21-1993 Rev 2B received 9 December 2021
- Proposed Floor Plan Drawing no. 5A received 29 June 2022
- 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
- Proposed Concrete Panel elevations Drawing No 6A received 29 June 2022
- Proposed Site and Block plan received 29 June 2022
- Noise Impact Assessment – Dynamic Response, June 2022 received 29 June 2022.

BACKGROUND PAPERS

Application case file.

Committee Plan - 21/01830/FUL

