

PLANNING COMMITTEE – 6 NOVEMBER 2018

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| Application No: | 18/01298/FULM | | |
| Proposal: | Variation of conditions 2, 13 and 14 attached to planning permission 15/01537/FULM | | |
| Location: | Nottinghamshire Scouts Adventure, Hoveringham Activity Centre, Thurgarton Lane, Thurgarton NG14 7HL | | |
| Applicant: | Nottinghamshire Scouts - Mr Stephen Day | | |
| Registered: | 10.07.2018 | Target Date: 09.10.2018 | Extension of Time agreed: 09.11.2018 |

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Thurgarton and Hoveringham Parish Councils have objected to the application which differs to the professional officer recommendation.

The Site

The application site is situated to the south of Thurgarton and to the north of Hoveringham and comprises a former sand and gravel pit, which was granted consent in February 2016 to be used by the Scout Association as a water sports lake. The conditions relating to this consent have been discharged and the consent implemented. The site is accessed from an access track off Thurgarton/Hoveringham Lane with Thurgarton railway crossing and station situated immediately to the north of the site and the Hanson cement works immediately to the east.

The site comprises a lake, club house (prefabricated porta cabins), boat storage compound and vehicle parking area. The lake is approximately 1.5km in length, 600m in width (at its widest part) and crossed by high voltage overhead electricity pylons at approximately the mid-point.

In accordance with the Environment Agency Flood Zone Mapping; a small proportion of the north western shore line lies within Flood Zone 3, with the lake itself designated as being within Flood Zone 2. The land to the north of the lake, the access track and the grassed area around the lake are all designated as being within Flood Zone 1. The entire site lies close to the boundary but within the Nottinghamshire Green Belt.

The site is not situated within a Conservation Area (CA), with the closest CA being Thurgarton. The southern boundary of the Thurgarton CA is situated approximately 300m to the north of the site. The closest heritage asset to the site is Thurgarton Station which is a Grade II listed property situated approximately 50m to the north of the lake. The closest residential properties to the site are Thurgarton Station, situated approximately 50m to the north, New Farm situated approximately 50m to the east and Rose Cottage situated approximately 130m to the south east.

The site is bound from the roadside by hedging and a 'permissive path' as detailed within the site restoration program runs around the edge of the lake approximately following the line of the drainage ditch. The path is separated from the scout site by post and mesh fencing and lies approximately 80m to the east of the lakeside club house.

Relevant Planning History

17/00136/ENF - Non-compliance with planning conditions - 15/01537/FULM. *The LPA have served a breach of condition notice on the land in respect of conditions 2; 13; 17; and 18. The requirements of the notice are as follows:*

- (1) Reduce the size of the portacabins comply with the approved details, to be 8.3m x 8.3m, and finish in Yorkshire boarding.*
- (2) Reduce the size of the decking to the size as detailed, 3m deep by 10m wide.*
- (3) Completely remove from the site the 2 additional metal storage containers (not shown on the plan received 26/8/15) and a timber shed that have been placed within the boat storage compound, as identified on the amended site plan, submitted on 8 February 2018 as part of planning application reference 17/01882/FULM.*
- (4) Reduce the height of the compound fencing and gates to 1.8m in height.*
- (5) Any trees/shrubs which have died, been removed or have become seriously damaged or diseased, shall be replaced in the current or next planting season with others of similar size and species in accordance with the details approved and contained on site layout plan 2016 received 01/08/16.*

*The notice was dated **9 March 2018** with the following compliance periods:*

- (1) 6 months after this notice takes effect.*
- (2) 6 months after this notice takes effect.*
- (3) 3 months after this notice takes effect.*
- (4) 6 months after this notice takes effect.*
- (5) 3 months after this notice takes effect.*

It is worthy of note that there is no right of appeal against a breach of condition notice. Full compliance was required by 9th September 2018. Officers have not commenced further enforcement proceedings on the basis of the currently pending application but it remains the ability of the LPA to prosecute against the breach of condition notice should the notice not be complied with in a timely manner after determination.

17/01882/FULM - Application for variation of conditions 2 and 13 of planning permission 15/01537/FULM (Change of Use of the Railway Lake to Watersport and Scouting Use, incorporating installation of portacabin for changing/training room and installation of septic tank) to allow the portacabin to be 9.6m x 9m, with rear decking area of 4.7m x 11.8m and painted Forest Green rather than clad. In addition retention of 2.35m high compound fence, 2.53m high compound gates and 4 metal storage containers and a timber shed within the compound area. (Retrospective)

Application refused following a Member resolution at the Committee Meeting of 6 March 2018 (contrary to Officers recommendation to approve). The application was refused for the following reason:

The clubhouse and associated boat storage compound (including the boundary fence and the two additional storage containers and timber shed) given their design, materials and scale as built result in an industrial appearance which is considered to result in an unacceptable degree of visual harm to the rural character of the surrounding area. In addition the resultant development is considered to be incongruous in this setting and would detract from the openness of the

designated Green Belt and conflicts with the purposes of including land within it. The proposal therefore fails to accord with Spatial Policy 4B, Core Policy 9 and Core Policy 13 of the Core Strategy (2011) and Policy DM5 of the Allocations and Development Management DPD (2013). The proposal represents inappropriate development within the Green Belt which is by definition harmful as outlined by the NPPF. No very special circumstances have been presented which would outweigh this identified harm.

17/00711/DISCON - Request for confirmation of discharge of conditions 7 and 9 attached to planning permission 15/01537/FULM; Change of Use of the Railway Lake to Watersport and Scouting Use, incorporating installation of portacabin for changing/training room and installation of septic tank. *All conditions discharged June 2017.*

16/01253/DISCON - Request for confirmation to discharge conditions 4, 5, 17 and 19 attached to planning permission 15/01537/FULM Change of Use of the Railway Lake to Watersport and Scouting Use, incorporating installation of portacabin for changing/training room and installation of septic tank. *All conditions discharged September 2016.*

15/01537/FULM - Change of Use of the Railway Lake to Watersport and Scouting Use, incorporating installation of portacabin for changing/training room and installation of septic tank. *Approved February 2016.*

15/00506/FULM - Change of Use of Railway Lake to Watersport and Scouting Use. *Withdrawn July 2015.*

11/00212/CMA - Variation of conditions 22 and 24 of planning permission 3/08/0226/CMA to extend the timescale for the completion of restoration works and tree planting. *Approved 2011.*

93/50782/CMA – Extract sand and gravel and re-phase infill by pulverized ash. *Approved 1996.*

93830713 – Extraction of sand & gravel, construction of road tunnel and conveyor. *Approved 1984.*

The Proposal

The application has been submitted as a variation of condition application to the extant permission reference 15/01537/FULM. For the avoidance of doubt, the current application has been revised during its lifetime owing to concerns raised by Officers. The original application form referred to the amendment of conditions 17 and 18. It was suggested that the need to revise condition 17 was on the basis of the height of the currently unauthorised fences and gates. For the avoidance of doubt, Officers do not consider that the height of the gates and fences was governed by condition 17 (landscaping details) as they were actually confirmed by a 'Statement of Clarification' to the original permission which stated that:

'We intend to create a boat park for the storage of water craft, this will be separately fenced to form a secure compound. This will be provided by 1.8m high security fencing.'

An email has been received during the life of the application dated 30 August 2018 which states:

- 1. The compound fencing will be replaced with profiled green fencing panels as per the attached details, the overall height of the finished fencing will be 1.8m all in RAL 6005. We will be retaining the existing posts and cutting these down to 1.8m and painting them RAL 6005.*
- 2. The existing gates will be replaced with new gates 1.8m high clad in the same profiles green panels as above, the existing gate posts will be retained, cut down to 1.8m and again painted RAL 6005.*

On this basis, Officers consider that there would be no amendments to the agreed details for condition 17 and therefore this has been removed from the description of development. The changes to the fencing and gates outlined above could be secured through prosecution of the breach of condition notice referred to above if required.

Condition 18 states that:

018

The approved landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the current or next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

As this allows the caveat for re-planting within a period of five years if specimens die, Officers would concur with the supporting letter of the current application that there has not been a formal breach of this condition. The reference to amending condition 18 has therefore been removed.

For the avoidance of doubt, a full period of consultation has been undertaken in respect to the confirmation during the life of the application that the existing unauthorized fences and gates are no longer sought for variation.

The conditions therefore sought for variation are 2, 13 and 14.

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plan references:

- Site Location Plan Received 26/8/15*
- Site Plan Received 26/8/15*
- Updated Entrance Plan Rev 1 Received 30/9/15*
- Portacabin Proposed Floor Plans & Elevations Received 26/8/15*
- Annotated Site Photo Detailing Proposed Site Entrance Received 26/8/15*

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

The rationale for the amendment of this condition is that the development has not been built in accordance with the approved plans. The application therefore seeks to amend the plan references to include an updated block plan which demonstrates the following:

- Increase in portacabin clubhouse footprint from 8.3m x 8.3m to 9m x 9.6m (17m² increase in footprint)
- Increase in the footprint of the lakeside decking area from 3m x 10m to 4.7m x 11.8m (55m² increase in footprint)
- Retention of 4 metal storage containers and a timber shed within the boat storage compound

13

The development hereby permitted shall be constructed entirely of the material details submitted as part of the planning application, stated in Section 11 of the application form and on the approved plans unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

The plans as approved demonstrated the club house in Yorkshire Boarding which this current application seeks to employ (noting that as existing the club house has an unauthorized Forest Green finish). However, the current application also seeks to amend the material finish of the unauthorized timber shed and fence surrounding the compound by painting them with a RAL colour 6005 Moss Green.

014

The activities hereby approved shall only be undertaken during the following times; weekday evenings 1700 - 2100, up to 3 days a week and weekends 0900 - 1600 during the months of April to September inclusive.

Reason: So as to not cause an unacceptable impact upon local or residential amenities.

The application seeks vary this condition to allow for use for up to 6 weekends during the closed season for training purposes with maximum usage of 25 persons on the water at any one time.

Departure/Public Advertisement Procedure

Occupiers of 85 properties have been individually notified by letter. A site notice has also been displayed near to the site and an advert has been placed in the local press.

Planning Policy Framework

The Development Plan

Thurgarton Neighbourhood Plan made October 2017

- Policy 1: New Development
- Policy 3: Transport Impact of Development
- Policy 4: Local Employment

- Policy 5: Community Facilities
- Policy 6: Historic and Natural Environment

Newark and Sherwood Core Strategy Adopted March 2011

- Spatial Policy 1 - Settlement Hierarchy
- Spatial Policy 2 - Spatial Distribution of Growth
- Spatial Policy 3 - Rural Areas
- Spatial Policy 4A - Extent of the Green Belt
- Spatial Policy 4B - Green Belt Development
- Spatial Policy 7 - Sustainable Transport
- Spatial Policy 8 - Protecting and Promoting Leisure and Community Facilities
- Core Policy 9 - Sustainable Design
- Core Policy 10 - Climate Change
- Core Policy 11 - Rural Accessibility
- Core Policy 12 - Biodiversity and Green Infrastructure
- Core Policy 13 - Landscape Character
- Core Policy 14 – Historic Environment

Allocations and Development Management DPD Adopted July 2013

- Policy DM5 - Design
- Policy DM7 – Biodiversity and Green Infrastructure
- Policy DM9 – Protecting & Enhancing the Historic Environment
- Policy DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

National Planning Policy Framework 2018

Planning Practice Guidance 2014

Consultations

Hoveringham Parish Council (joint response with Thurgarton Parish Council)– This document sets out the combined response of Hoveringham and Thurgarton Parish Councils to the application made by Stephen Day on behalf of Nottinghamshire Scouts to vary planning conditions 2, 13, 14, 17 and 18 of Permission 15/01537/FULM.

The application is opposed by both Parish Councils.

We refer the Planning Department to the decision of the Planning Committee, dated 8th March 2018, in relation to Application No. 17/01882/FULM, made by the same Applicant, seeking to vary conditions 2 and 13 of Permission 15/01537/FULM, which was refused by the full Planning Committee of Newark and Sherwood District Council. At the Planning Committee meeting a direction for enforcement of the original planning conditions was issued. We ask that that now be proceeded with to ensure that the original planning conditions are complied with. It will be noted that this application seeks, again, to vary planning conditions 2 and 13 in ways which are unacceptable to the Parish Councils and which we would suggest have already been rejected by the N&SDC Planning Committee.

There is a substantial history to this development by Nottinghamshire Scouts. That history is marked by a lack of consideration for the views of local residents and poor communication on the part of the Scouts representatives. We are astonished to read in the Scouts submission in support of this application that they have consulted with our Parish Councils and the Local Borough Counsellor and that they believe a consensus has been reached. The Scouts representatives attended one meeting of each Parish Council, at which they were asked to produce a range of possible options for this site and, particularly, costings for replacement of the unsightly fence. No further contact transpired prior to this Application being made. The statement that there is consensus is untrue and misleading and, regrettably, it is consistent with a history of misleading statements made on behalf of Nottinghamshire Scouts in support of the various applications for planning permission for this development.

We warned at the outset of this development that the Application was couched in vague terms, lacked a Design & Access Statement, was unlikely to accurately reflect the development which was actually intended and would lead on to likely breach and enforcement, with all the difficulties that entailed. It is a matter of utmost regret that these matters have, as we predicted, come to pass. That regret is deepened by the nature of the organisation. In short terms, we expected better from the Scout Movement.

We refer to the original Planning Application, reference 15/01537/FULM and to the detailed submissions made by Hoveringham Parish Council, and which were adopted by Thurgarton Parish Council. We ask the Committee to note that, at that time, both Parish Councils identified the following concerns:

- (ii) A failure on the part of the Nottinghamshire Scouts to engage with the local community or to take account of the views of local village residents;
- (iii) The vague and misleading way in which it was felt the application had been presented;
- (iii) The real risk, identified by both Parish Councils, that there would be a risk of breach of planning condition and difficulty in relation to enforcement;
- (iv) The significant loss or impairment of a local amenity in the form of the Railway Lake which, prior to this planning permission, was preserved as an area of quiet water and local natural beauty.

Those objections were only withdrawn by the Parish Council following late discussion with the Scouts representatives and in reliance upon further agreed conditions which it was agreed would be attached to the planning permission. It is important to understand that the objections of the Councils would have been maintained had there not been significant faith placed in the Scout representatives' promises to comply with the terms and conditions of the planning permission granted and the agreed conditions.

In essence, those conditions had as their underlying aim a desire to preserve, so far as possible, the rural aspect of this corner of the Railway Lake and to ensure that, whilst the Scouts aims could be met, the natural beauty of the area was not unnecessarily compromised. It was understood that the development carried consequences, but it was important that the development was limited in the size of the buildings and that hard landscaping was to be softened so far as possible by the provision of matters such as cladding and screening.

The conduct of the Scouts, and particularly the wholesale disregard of the terms and conditions of the planning permission leading to this application, fundamentally undermines the faith placed in the Scout Association by the Parish Councils and by local residents to comply with the conditions of the planning permission and to endeavour to ensure, so far as possible, that the site retained a rural aspect and feel.

It is our view that, because of these breaches of the original planning permission, the development presents with an 'industrial' appearance which wholly compromises the area at the corner of this lake. The size of the buildings and, particularly, the so called "security fence" now erected are serious breaches which fundamentally alter the appearance of the area. The fence is particularly bad.

In reaching this conclusion, we have consulted with all local residents, by invitation to PC Meetings, but we have been particularly concerned by the expressed views of those householders whose properties neighbour this corner of the Railway Lake or who have an aspect towards it. It is not unfair to say that they have been universally appalled by this development and by the behaviour of the Scouts representatives in relation to it. They are not reassured by any of the proposals in this Application. Furthermore, in the course of our consultations, whilst we have received many negative views about the Scout site, not one local resident has spoken in favour of it.

These concerns were voiced to the Scouts representatives at a Parish Council meeting held in June when, in our opinion, those representatives could have had no doubt as to the local anger at the Scouts' behaviour and as to the opposition of local residents. At the conclusion of the meeting we invited the Scouts representatives to return to us with further proposals and, in particular, to investigate alternatives to the fence and costings in relation to it. It is extremely disappointing that this invitation has not been taken up and that, in disregard of the views expressed directly to the representatives, the Application has been made without there being any further consultation.

The Application and Submission which accompanies it are opposed root and branch. We are tired of this disregard of the views of local people, whom we represent. This will be the third time, now, that we have had to address the Planning Committee because of the behaviour of the representatives of the Scout Association. It is a waste of our time and our resources, which are limited, and those of the Planning Committee, for this issue to be continually revisited because of what is, in reality, a comprehensive disregard of planning law and planning requirements. Quite simply the conditions which were imposed have been ignored.

We doubt that, if the Scouts were a commercial organisation in charge of this development, the application would even be considered.

We invite the Planning Department to note that neither Mr Day nor the Nottinghamshire Scouts made any Application to vary these planning conditions before they proceeded to breach them. Neither, having done so, did they act themselves to remedy the situation by making a prompt retrospective application. The Nottinghamshire Scouts did not alert the Planning Department to the breaches of their own accord. It was only as a result of the intervention of local villagers that the breaches were identified and, even then, the Application which has followed could scarcely be described as prompt.

We make the following comments as to the breaches of condition and as to proposals in the Application:

- (i) The size of the portacabin, the size of the decking, the unilateral building of 2 additional storage containers and the timber shed are major breaches of the original Planning Permission which confirm exactly what the Parish Councils said at the time – that this was a more developed and advanced building operation than the Scouts had revealed and that the original application could not be correct in the limited nature of the building it anticipated;
- (ii) The ugly nature of these containers and of the shed is not materially diminished by painting them green;
- (iii) We note that the Scouts will now clad the building in Yorkshire boarding (notwithstanding the assertion in their original Application, dated 16 October 2017, that this was impossible). The cladding of the building in Yorkshire boarding does present as a better alternative to painting the portacabin, but does not, of itself, address the fact that the building is too large and the decking exceeds the size for which permission was granted;
- (iv) It is now proposed that the use of the lake, which already brings substantial numbers to the village, be extended for 6 further weekends out of season bringing more disruption to our respective villages and extending the period of use into the closed season;
- (v) The proposals in relation to the gates and the fence are wholly unacceptable;
- (vi) The fence is a significant and ugly eyesore. Permission was granted for fencing to 1.8 metres, and it exceeds this by 73 centimetres, well over half a metre. It was not necessary for industrial fencing to be used and painting it does not offset its ugly and industrial appearance;
- (vii) We are unconvinced as to the risk posed by theft. No evidence is produced from the nearby Nottinghamshire County Sailing Club to indicate the risk is real and the stealing of boats would require an organised operation (such that the difference in height of the fence is unlikely to have any material effect). In our view the original limit on the height of the fence was realistic and sensible;
- (viii) We disagree that the height of the fencing cannot be reduced. The industrial fencing should be removed and replaced with fencing of the correct height. We would much prefer this to be more visually appealing, whether by its own nature or through additional and immediately effective screening, until the proposed planting has become established;
- (ix) It was a requirement of the original planning permission that the compound and its fence be screened by tree planting. We acknowledge that this requires time. We are appalled to read that 30% of these trees have failed. The screening of the compound was one of the most important aspects of the agreement reached to withdraw objection to the original Planning Permission and we believe maintaining and preserving the planting should have been a priority. We would like reassurance that a full and proper planting programme will now be responsibly followed by the Applicant and that planting will be adequately tended and maintained. Whilst it may be that some of the trees planted are flourishing, the screening effect which was desired is a long way from being achieved.

We do not consider that these objections are capable of simple remedy. This is a wholesale and flagrant breach of the Planning Permission and we invite the planning department to reject the Application.

Thurgarton Parish Council - Thurgarton Parish Council voted unanimously to object to this variation to planning permission on the following grounds:-

Thurgarton and Hoveringham Parish Councils had 4 separate meetings with Notts. Scouts in June 2018, all with an agenda to ensure that the variation to planning application would include vital feedback from the consultation with the local community. At the end of these meetings both Parish Councils committed to providing Notts. Scouts with a joint statement. We are disappointed

in the extreme therefore that Notts. Scouts have completed their variation planning application without including the feedback from the consultation with the local community, which would have been included in the joint statement, this is in direct contradiction with the last paragraph of the introduction section. I now understand that Notts. Scouts were working to a deadline, however the deadline date was not made clear to either Hoveringham or Thurgarton PC s at the meetings attended. If a deadline date had been identified then a joint response would have been sent to the Notts Scouts in good time. As a consequence of this, we are now having to object to a number of items contained within the this variation to planning permission:-

Condition 2

- There was general consensus for allowing the variation of the size of the portacabin (assuming that this was clad in Yorkshire Boarding as originally agreed) and the size of the decking
- There was general consensus for allowing the variation of 2 additional storage containers and the timber shed as long as they looked appropriate for the local environment see detail in Condition 17 below.

Condition 14

- There was general consensus for allowing the variation of the use of the lake for up to 6 weekends during the closed season, for training purposes, max of 25 persons on the water at any one time.

Condition 17

- This is where the additional feedback from the communities has been omitted. It is essential that the galvanised palisade fencing, which we have described as industrial, is either removed or camouflaged in such a way that the compound melds into the look and feel of the local countryside. It was not thought that simply painting the fencing a different colour would be sufficient to achieve this objective. Other suggestions included using camouflage netting or covering with willow fencing rolls. It was clear that we would not be able to come up with a solution without trying them out visually. However, it was deemed essential that the galvanised palisade fencing, which is in no way suitable for this compound, should be camouflaged for a period of 5 years or until the planting provides suitable screening for the compound.
- Assuming that suitable camouflage can be found, and agreed to by the local community, then there was general consensus to reducing the height of the gates

Condition 18

- We would ask that whatever can be done to encourage the maturity of the screening, should be done.

The conclusion to the application states '*We now believe that we have the support of both parishes*' this is clearly not correct.

In addition, we had been discussing the car parking spaces and had asked that Notts. Scouts quantify the number of car parking spaces that were being provided at the Activity Centre

NCC Highways Authority – This submission to vary conditions does not affect the highway–related conditions attached to the planning permission 15/01537/FULM. Therefore, no objections are raised.

Nottinghamshire Wildlife Trust - We note from the documents submitted with the above planning application that Nottingham Scouts wish to undertake sailing on 6 weekends during the closed season (October-March) on the Railway Lake. We are concerned about the disturbance to wildfowl that additional sailing will create. The UK is an extremely important destination for a significant number and variety of wildfowl that spend the winter in the UK due to our milder climate. Former mineral extraction sites such as this provide an important refuge for them. We acknowledge that this is a relatively small number of weekends when the length of the closed season is considered but critically, disturbed birds have fewer places to disperse to in this part of the Trent Valley due to sailing throughout the winter by Nottingham Sailing Club, fishing on Gonalston Lane pit and the pit at Coneygre Farm being subject to disturbance. We do not object to this proposal but we would wish to see the six weekends being the limit of sailing during the closed season. We would also like you to ensure that the additional weekends are strictly for training purposes only in order to keep disturbance to wildfowl to a minimum.

Representations have been received from 7 local residents/interested parties which can be summarised as follows:

- The planning rules have been blatantly flaunted
- Just because the use is for the Scouts, it should not be a free reign to disregard the planning regulations
- The footpath has always been an unofficial path used by dog walkers
- The original application should have been complied with
- The Enforcement Officer should ensure the original conditions of 15/01537/FULM are enforced
- The industrial look of the compound is unsightly and entirely inappropriate
- The painting of the fence at its current height will make little difference to the visual impact and may make matters worse depending on the season
- The comments in the application are misleading in respect to the account of the Parish meeting
- The consultation process has not included close properties
- The current proposal would still leave the fences 55cm higher than the planning consent
- The permissive path was not provided by the applicant as suggested
- Locals have not been supportive as suggested
- The Scouts have not maintained the land as per their tenancy
- One of the compounds is being stored for a third party
- There is no requirement for a container to store grounds maintenance gear
- The cladding is a requirement of the original permission
- The value of the equipment in the storage compound is over estimated
- The enforcement notice issued in March 2018 should stand and be enforced against
- The site looks like an industrial complex
- The current level of usage should not be increased
- The number of children attending in activity weekends regularly exceeds 100 and causes noise
- The wildlife will be driven away from the lake and woodland
- Support the comments of the Parish Councils

Comments of the Business Manager

Relevant Background

As is detailed by both the planning history and consultee and representations sections above, the development on site has not been built in accordance with the plans and application details to the extant permission reference 15/01537/FULM. The applicant has already made an attempt to regularise this through a variation of condition application reference 17/01882/FULM. This application was refused by the local planning authority in March 2018 and enforcement action undertaken in the form of a breach of condition notice. Given the lack of ability to appeal a breach of condition notice, the current application is inferred as a second attempt to regularise some of the development on site. The current application differs from the previously refused section 73 application in the following respects:

- The club house is confirmed as being Yorkshire Clad – as outlined in the proposal section above, this is a requirement of the original permission in any case and therefore is not necessarily required to be considered a variation of condition.
- There is confirmation that the fences and gates would be reduced in height to 1.8 – again, as outlined in the proposal section above, this is a requirement of the original permission in any case and therefore is not necessarily required to be considered a variation of condition.
- The timber shed and the fencing surrounding the compound would be painted in RAL colour 6005 Moss Green (colour confirmed by email dated 30 August 2018).
- Permission is now sought to increase the usage of the lake for up to 6 weekends in the ‘closed’ season between September and April to allow for training.

The changes in comparison to the original permission are therefore the final two bullet points above as well as:

- Increase in portacabin clubhouse footprint from 8.3m x 8.3m to 9m x 9.6m (17m² increase in footprint)
- Increase in the footprint of the lakeside decking area from 3m x 10m to 4.7m x 11.8m (55m² increase in footprint)
- Retention of 4 metal storage containers and a timber shed within the boat storage compound

Principle of Development

An application under Section 73 (variation of condition) is in effect a fresh planning application but should be determined in full acknowledgement that an existing permission exists on the site. This Section provides a different procedure for such applications for planning permission and requires the decision maker to consider only the question of the conditions subject to which planning permission was granted. As such, the principle of the approved water sports lake cannot be revisited as part of this application.

The NPPG acknowledges that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area, thus providing a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area.

Following public consultation and independent examination, at its council meeting on 10 October 2017 Newark and Sherwood District Council adopted the Thurgarton Neighbourhood Plan. The Neighbourhood Plan now forms part of the development plan for the district and its policies are a material consideration alongside other policies in the development plan and carry weight in the determination of planning applications in Thurgarton. In this instance the most relevant policies in the Neighbourhood Plan are listed above and are considered against the relevant aspects of the proposal in the assessment below.

Policy 1 of the Neighbourhood Plan refers to development in the Green Belt directing assessment towards National Green Belt policy. This is also the case with Spatial Policy 4B.

It is notable that the National position has changed since the original approval (and indeed the previous Section 73 application) through the publication of the 2018 NPPF. Notwithstanding this the overall stance of the document in respect to Protecting Green Belt land is largely unchanged.

Impact on the Openness of the Green Belt and Character of the Surrounding Area

The site lies on the eastern edge of the Nottinghamshire Derby Green Belt. Paragraph 143 of the NPPF states that, *'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.'* Paragraph 145 goes on to confirm that some new buildings may be considered as an exception to inappropriate development including *'the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;'*.

It is fully acknowledged that the principle of the development has been accepted by the authority through the approval of the extant permission. However, what is equally clear is the LPA's position in respect to the development as built on site in an unauthorized manner. In refusing the previous Section 73 application and serving a breach of condition notice, the LPA has already determined that:

The clubhouse and associated boat storage compound (including the boundary fence and the two additional storage containers and timber shed) given their design, materials and scale as built result in an industrial appearance which is considered to result in an unacceptable degree of visual harm to the rural character of the surrounding area. In addition the resultant development is considered to be incongruous in this setting and would detract from the openness of the designated Green Belt and conflicts with the purposes of including land within it.

The current application submission originally outlined that the gates would be reduced in height from 2.53m to 2.35m but that the overall height of the fence would be retained as built (2.35m). Officers strongly resisted this position and advised of a likely recommendation of refusal partially on this basis. Subsequently, the applicant has now confirmed by email that the unauthorized fences would be reduced in height to their approved 1.8m.

In the context of Green Belt discussion and in the interests of preserving openness, the main changes sought from the extant permission now relate to the size of the portacabin and decking and the retention of the storage containers and timber shed within the boat storage compound.

Members will be aware that, in respect to the previous Section 73 application, Officers were minded to recommend approval. Members however overturned this decision and instructed the enforcement proceedings which have since occurred. To be clear, the decision of the LPA on the last Section 73 application is a material consideration and it is for this reason that Officers were clear to the applicant that, on the basis of the original submission (i.e. not reducing the height of the gates), the proposal would be insufficient to overcome the Green Belt harm which the LPA have identified.

However, in the context of the gates and fence reduced to the approved 1.8m height, and indeed noting the intentions for material finish of the fence; gates; and porta cabin, Officers are again faced with a judgement as to the Green Belt harm which would arise.

The reason for refusal for the previous Section 73 application refers to the cumulative impact on openness which arose from numerous elements of unauthorised development. Officers have considered the current application on its own merits taking the previous decision of the LPA as a material consideration. However, in this instance, the statement of the previous Officer report is still considered relevant:

Dealing firstly with the portacabin clubhouse; the increase in scale of the building and associated decking area is not considered to be overly discernible from that previously approved. The decking area is predominantly only visible across the lake to the west and as shown on the supporting photos does not appear overly prominent or out of scale with the clubhouse. As such is not considered the revisions in the scale of the clubhouse and decking significantly impact upon the openness of the Green Belt nor character of the area.

A similar judgement would be reached in respect of the two additional storage containers and the timber shed (all retrospective). The applicant has stated that these are required to provide the grounds maintenance to the permissive path which exists within the site.

It is fully appreciated that this view was disagreed with by Members but this was also in the context of a revised finish of the porta cabin building. To reiterate, the applicant has now confirmed that the porta cabin would be finished in Yorkshire clad as outlined by the extant permission. It is also a material change since Members last consideration that the applicant no longer seeks to increase the height of the fence and gates which surround the storage compound (a matter which could be secured through enforcement proceedings noting the currently unauthorised structures). On the basis of these factors, Officers are of the view that the current application tips the balance towards acceptability in terms of harm to Green Belt openness. It is therefore no longer considered reasonable to resist the application in respect to a conflict with National Green Belt policy which is referred to by the associated local policies of the Core Strategy and the Neighbourhood Plan.

Impact on Ecology (including planting)

The current application is also materially different in comparison to the previously refused Section 73 in that it now seeks to revise condition 14 to allow for the lake to be used for training purposes for up to 6 weeks between September and April. This element of the proposal has been specifically commented on by the comments of Nottinghamshire Wildlife Trust as listed in full above. Whilst not forming an objection, the comments do raise concern to the potential disturbance to wildfowl that the additional sailing would create. Officers consider that 6 weekends over a 6 month period would be marginal in respect to ecology impacts particularly given that the

proposed increased usage would be for up to 25 persons on the lake at any one time rather than the rest of the year where the extant permission allows for up to 75 persons. Officers concur with NWT that 6 weeks in the winter season should be the upper limit, but clearly if this application were to be otherwise approved then any usage increase 6 weeks between September and April would require the submission of a separate planning application which would subsequently be considered on its own merits.

To reiterate, the current application confirms that additional planting to replace those species which have failed (as required by condition 18) will be planted during the winter in accordance with the condition.

Overall Balance and Conclusion

The application represents a second attempt by the applicant to amend conditions imposed on an existing permission. The first attempt was refused by the authority in March 2018 owing to the industrial appearance of the proposals which create a visual harm detracting from the openness of the Green Belt. Following this refusal, the LPA has served a breach of condition notice which requires compliance with the original conditions of the application.

The amendments in comparison to the previously considered scheme which have been confirmed during the life of the current application (notably largely simply showing compliance with the approved details in respect to the height of the fence and gates and the finish of the clubhouse), are considered to tip the balance such that the proposal would no longer amount to a harm to the Green Belt openness. The changes to condition 14 in respect to the usage of the lake have also not amounted to the identification of further ecology harm which would warrant a refusal. On this basis, Officers recommendation is one of approval based on the revised conditions below which would take account of where conditions have been previously discharged. Equally the numbering of the conditions would be amended given that development has already commenced. Where changes are made these are indicated by underlined text. To clarify, any unauthorised development not sought to be regularised through the current submission would continue to be pursued by the LPA through separate enforcement proceedings which have already commenced.

RECOMMENDATION

That full planning permission is granted, subject to the following conditions:

Conditions

01

The development hereby permitted shall not be carried out except in complete accordance with the following approved plan references:

- Site Layout Plan received 08/02/18
- Site Location Plan Received 28/11/17
- Updated Entrance Plan Rev 1 Received 30/9/15
- Annotated Site Photo Detailing Proposed Site Entrance Received 26/8/15
- Amended Fencing Details and associated covering email received 30/8/18
- Block Plan received 4/9/18

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

02

Notwithstanding the planning permission hereby granted, the lake known as Railway Lake shall not be used by any motorised pleasure craft, with the exception of motorised safety craft, of which up to 4 may be present on the water at any one given time.

Reason: In the interests of amenity

03

Development shall be undertaken in accordance with the walkover survey undertaken by BJ Collins approved by correspondence dated 15 June 2017 under discharge of condition application ref: 17/00711/DISCON.

Reason: To ensure the conservation of protected species in accordance with the aims of the NPPF and Core Policy 12 of the Core Strategy and Policy DM7 of the DPD.

04

The culvert required to implement the access shall be constructed in accordance with Bridge section drawing dated 24/3/16 as approved correspondence dated 15th June 2017 under discharge of condition application ref: 17/00711/DISCON.

Reason: To ensure the conservation of protected species in accordance with the aims of the NPPF and Core Policy 12 of the Core Strategy and Policy DM7 of the DPD.

05

The development hereby permitted shall be undertaken in full accordance with the Recommendations and Precautionary Working Practices as set out in sections 5.1.2, 5.2.2, 5.4.2 and 5.5 of the Protected species survey dated July 2015 (prepared by Scarborough Nixon) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the conservation of protected species in accordance with the aims of the NPPF and Core Policy 12 of the Core Strategy and Policy DM7 of the DPD.

06

Development shall be undertaken in accordance with the Railway Lake Management Plan 2017 – 2022 Rev 1 received 7/6/17 as approved correspondence dated 15 June 2017 under discharge of condition application ref: 17/00711/DISCON.

Reason: To ensure that the work is carried out within an agreed appropriate period and thereafter properly maintained in the interests of visual amenity and biodiversity.

07

No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site.

08

Development shall be undertaken in accordance with the detailed contained within the Railway Lake Management Plan 2017 2022 Rev 1 received 7/6/17 and as detailed on the Environmental Impact Map as approved correspondence dated 15th June 2017 under discharge of condition application ref: 17/00711/DISCON.

Reason: To ensure the conservation of protected species in accordance with the aims of the NPPF and Core Policy 12 of the Core Strategy and Policy DM7 of the DPD.

09

The access shall be located in accordance with the submitted 'annotated site photo' and constructed in accordance with the submitted 'Station Road Access Design Rev.1' drawing offering 6m wide entrance, 10m radii and visibility splays of 2.4m x 185m to the north and 2.4m x 125m to the south. No other part of the development shall be commenced until the access has been provided.

Reason: In the interests of highway safety and to provide adequate access for construction vehicles.

10

No part of the development hereby permitted shall be commenced until the new access mouth (up to the edge of the gravel driveway) has been constructed with a hard bound surface.

Reason: To reduce the risk of deleterious material being deposited on the public highway (loose gravel etc.)

11

The lake known as Railway Lake shall not be floodlit or illuminated in any way, unless express planning permission has first been granted by the local planning authority.

Reason: In the interest of the character of the surrounding area.

12

Within three months of the decision for the development hereby granted, the material finishes as agreed shall be carried out in full on site and retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority. For the avoidance of doubt, the porta cabin shall be finished in a Yorkshire Board cladding (as demonstrated by the supporting statement received 9th July 2018) and the fences; gates; storage containers; and timber shed shall be finished in a moss green paint finish (RAL 6005) as confirmed by email dates 30th August 2018.

Reason: In the interests of visual amenity.

13

The activities hereby approved shall only be undertaken during the following times; weekday evenings 1700 – 2100, up to 3 days a week and weekends 0900 – 1600 during the months of April to September inclusive with the exception of the usage of the lake for up to 6 weekends between October and March inclusive for training purposes.

Reason: So as to not cause an unacceptable impact upon local or residential amenities.

14

A log of all boat usage shall be maintained at the lake. The log shall record the time, date and number of boats on the water. The log shall be kept up to date and made available to an authorised officer of the Local Planning Authority within 2 working days of a written request for inspection.

Reason: To allow the Local Planning Authority to monitor and confirm all such movements, including in the event of any complaint concerning regattas being received by the Local Planning Authority.

15

Between April and September inclusive no more than 75 persons shall be undertaking water based activities at any given time. On the six weekends of usage between October and March inclusive no more than 25 persons shall be undertaking water based activities at any given time.

Reason: So as to not cause an unacceptable impact upon local or residential amenities

16

Landscape planting shall be undertaken in accordance with site layout plan 2016 received 1/8/16 as approved correspondence dated 15th June 2017 under discharge of condition application ref: 17/00711/DISCON and as detailed on site layout plan received 15/1/18.

Reason: In the interests of visual amenity and biodiversity.

17

The approved landscaping shall be completed during the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the current or next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

18

Parking on site shall be as detailed on site layout plan 2016 received 1/8/16 as approved correspondence dated 15th June 2017 under discharge of condition application ref: 17/00711/DISCON.

Reason: In the interests of the character and appearance of the area

Notes to Applicant

01

In order to carry out the new access works, you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an

agreement under Section 278 of the Act. Alternatively, works may be carried out on your behalf by Nottinghamshire County Council at an agreed cost without a need to enter into Agreement. Please contact david.albans@nottscc.gov.uk for details.

02

Safety literature as regards level crossings should be made available to users of the site.

03

Further to the comments received from Network Rail on 09/09/15 the applicant is advised to contact the asset protection team to discuss the proposed delivery route to site of any required abnormal loads. The asset protection team can be contacted on tel 01904 389678 or email tony.rivero3@networkrail.co.uk

04

Nesting birds are protected by the Wildlife and Countryside Act 1981 (as amended). It is an offence to intentionally or recklessly kill, injure or take any wild bird; take, damage or destroy its nest whilst in use or being built; and/or take or destroy its eggs. Normally it is good practice to avoid work potentially affecting nesting birds during the period 1 March to 31 August in any year, although birds can nest either side of this period.

05

The comments received from Trent Valley Internal Drainage Board dated 12/10/15 should be noted. For clarity, any works within 9m of any watercourse controlled by the board, works to increase the flow of water to any watercourse or erection of a dam, weir or other obstruction to the flow or erection or alteration of any culvert would require the board's prior written consent.

06

The applicant shall inform users of the site of the most appropriate route for accessing the site; via Station Road accessed from the A612, to reduce the thoroughfare of traffic through the villages of Hoveringham & Thurgarton.

07

The applicant and the local parish councils shall undertake quarterly meetings to discuss activities and operations on the lake, in the interests of maintaining good working relationships.

08

The applicant is advised that all planning permissions granted on or after the 1 December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.newark-sherwooddc.gov.uk/cil/

The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

Background Papers

Application Case File

For further information, please contact Laura Gardner on 5907.

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

Matt Lamb

Business Manager – Growth & Regeneration

