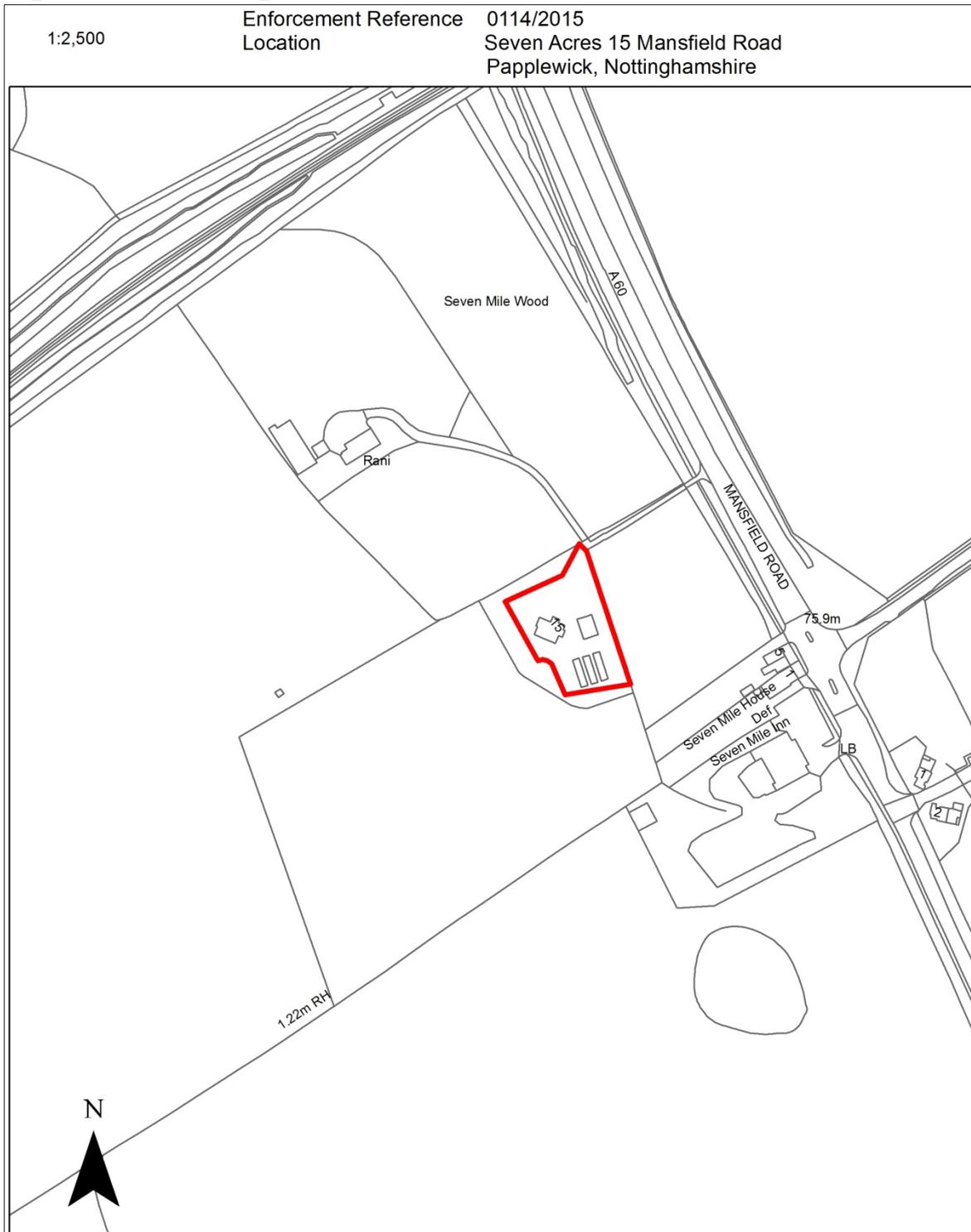




Report to Planning Committee



NOTE This map is provided only for purposes of site location and should not be read as an up to date representation of the area around the site. Reproduced with the permission of the Controller of H.M.S.O. Crown Copyright. Licence No LA100021248. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.



Report to Planning Committee

Reference	0114/2015
Location	Seven Acres, 15 Mansfield Road, Papplewick NG15 8FH
Breach of Planning Control	Material Change of Use of land for caravan storage within the site and the unauthorised erection of a tree house in adjacent woodland.

1 BACKGROUND

- 1.1 This site known as Seven Acres is to the west of the A60 Mansfield Road and to the north west of Seven Mile Inn at Papplewick and concerns an unauthorised use of the land for the storage of caravans and an unauthorised tree house erected in adjacent woodland also belonging to the owners of the site.
- 1.2 In 27th May 2011 , the Council granted conditional planning permission for the erection of a replacement two storey dwelling on the land known as Seven Acres, 15 Mansfield Road, Papplewick (Reference 2011/0386) in a similar position as a bungalow which had previously been granted permission in 1953.
- 1.3 In January 2016, the Council received a complaint about the unauthorised storage of caravans in the Green Belt on land just south of the residential property.
- 1.4 On the 1st November 2016, a meeting was held at the site with the owner and subsequently letters were sent to the owner of the site to advise the storage of caravans was unauthorised and required planning permission. An application was submitted to retain the caravan storage on the site but was later withdrawn when the applicant was advised permission was likely to be refused.
- 1.5 A further letter was sent to the owner of the site to advise the caravans should be removed by the 6th March 2017 as the storage was still unauthorised.
- 1.6 On the 4th April 2017 the Council received a new complaint about the caravans and also about a new building just outside of the residential curtilage, in the woodland to the east of the dwelling.
- 1.7 A site visit was carried out on Tuesday 4th April 2017 by officers when it was confirmed that 18 caravans remained on the land. At this time the owners claimed ten caravans were owned by them and there was no intention of removing the

caravans from the land. In addition, the owner has indicated they would like to store at least 50 caravans on the land to 'yield the necessary income'.

- 1.8 The 'new building' is a tree house which requires planning permission because it is outside of the residential curtilage. The owners stated the tree house had been built for their children to play in and they were surprised it needed planning permission.

2 ASSESSMENT

Location

- 2.1 The dwelling known as Seven Acres, 15 Mansfield Road, Papplewick is a large modern detached dwelling sited in the open countryside and which cannot easily be seen from any public vantage point. However, the site is within the Nottinghamshire Green Belt as identified on the Proposals Map of the Gedling Borough Replacement Local Plan 2005 (which is not amended in the emerging Part 2 Local Planning Document); it is to the west of Mansfield Road and to the north west of Seven Mile Inn. The site is accessed by an 89 metre long narrow shared private drive leading from the A60 and then through 2.2 metre high electronic solid gates into the garden area of Seven Acres.
- 2.2 The site is well screened to the east from the A60 and the access road with a thick band of trees which are protected with a blanket Tree Preservation Order. It is within this woodland area the tree house has been erected.
- 2.3 The caravans are stored on gently sloping grass land to the south of the dwelling and extend onto agricultural land beyond the residential curtilage. A thinner band of trees extends along the boundary of the adjoining agricultural land and the A60 to the south of the site. As the trees are mainly oak and silver birch and are deciduous, there is a glimpse through the trees before and after the trees are in full leaf in the summer when travelling north along the A60 from the direction of the Police Headquarters towards the site.
- 2.4 Residential properties and the Seven Mile Public House adjoin the site to the south east and there are restricted views through the trees from these properties and from the rear beer garden of the Seven Mile Inn to the caravan storage. Clearer views of the caravans are seen from the residential property known as 'Rani' to the north west of the site.
- 2.5 A belt of trees also extends along the north western boundary. The western and southern boundaries of the site are relatively open with agricultural fields beyond, although some new tree planting has taken place along these boundaries.

Planning Considerations

- 2.6 Although the caravan storage and the tree house development has occurred without planning permission and is therefore unauthorised, local planning authorities are required to consider government guidance when deciding whether to take planning enforcement action. Government guidance is found in the National Planning Policy Framework (NPPF) (Paragraph 207) and states that although effective enforcement is important as a means of maintaining public

confidence in the planning system, ultimately enforcement action is discretionary and local planning authorities should act proportionately in responding to breaches of planning control.

- 2.7 The main considerations in thinking about whether to take enforcement action in this case is whether the Council is within the time limits for taking action and whether this is appropriate development within the Green Belt setting of the site; whether it is of acceptable scale, design and appearance and whether it will have a detrimental impact upon the amenity of neighbouring residents or a detrimental impact to highway safety or the health of protected trees.

Time limits for action

- 2.8 The caravan storage began in the autumn of 2015 and the time limit for taking action against a material change of use is ten years. The tree house has been erected recently and the time limit for taking action in this case is four years. It is considered the Council is within time to take formal action against both breaches.

Potential harm to protected trees.

- 2.9 Although the tree house is attached to trees preserved by a blanket tree preservation order, the Council's arboriculturist considers that no harm has been caused to the trees and that he did not feel the trees were in any threat of damage as a result of the development. The caravan storage does not impact on the trees.

Green Belt Policies

- 2.10 Paragraph 79 of the NPPF states that the fundamental aim of Green Belt policies is to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belt are their openness and their permanence.

The storage of a number of metal caravans with a shiny reflection in this very rural location interrupts the openness of the Green Belt and is at variance with Paragraph 79 of the NPPF. In addition, caravan storage does not fall within any of the small number of specific categories of development set out within the NPPF as being appropriate development within the Green Belt. 2.11 Paragraph 87 of the NPPF states that:-

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

- 2.12 Paragraph 88 of the NPPF continues:

"When considering any planning application, local planning authorities 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, is clearly outweighed by other considerations".

2.13 The owner of the site has claimed a medical condition provides them with 'very special circumstances' and that planning permission should be granted because of this medical condition. It is considered that the medical condition does not constitute very special circumstances as it is not relevant to whether the storage of caravans or the erection of a tree house on land in the Green Belt should be permitted. Both the tree house and caravan storage are therefore in conflict with Green Belt Policies.

Neighbours' amenities

2.14 The caravan storage and the tree house can be seen from the neighbouring property 'Rani' which stands on higher ground to the north west and overlooks the site. There are also limited views from other residential properties and the beer garden of the public house to the south of the site and on the approach from the A60 at certain times of the year when the trees are not in leaf.

2.15 Although the tree house is visible from the neighbouring property, it is at a distance and is painted green and blends well within the surrounding trees. The land where the tree house is positioned has not taken on the character of a residential garden but remains as a separate area characterised as woodland and an area which the owner appears to value and accept as protected.

2.16 There is no other domestic paraphernalia within the woodland to suggest a material change of use of the land has occurred and it is natural the owners' children will play in the woodland whether the tree house is allowed to remain or not. It is thought the tree house will degrade over time and it is not considered to be a permanent structure but rather a temporary play 'den' for the owners' children. There are no over-looking or privacy issues and it is considered there is no detrimental impact caused by the tree house on neighbours' amenities.

2.17 However, the quantity, light colour and metallic view of the caravans is a more obvious incongruous and alien feature in the countryside and is detrimental to the visual amenities of local residents and visitors to the area and affects the openness of the countryside.

Highways issues

2.18 The use of the access by a number of caravans and tow vehicles will significantly increase the number of vehicular movements on this single track access road. The access road leads directly from the A60 where the speed limit is 50mph. The access is narrow and has no passing places and so any vehicles waiting to turn into the access from the A60 may be obstructed from doing so if vehicles are waiting to leave the access and pull out into the A60. In any case slow moving vehicles manoeuvring onto and from the A60 are detrimental to highway safety.

2.19 The County's Highways Authority has stated

"The traffic generated by the proposed development would be likely to result in and unacceptable increase in danger to the users of the highway due to increased use of the existing access which is geometrically substandard in that:

It is of inadequate width to allow two vehicles to pass; resulting in an increase in the likelihood of unacceptable danger to users of the highway, which may result in the driver having to reverse back or wait on A60”.

2.20 As a result the use of the land for the storage of caravans is contrary to Policy ENV1 (Development Criteria) of the Gedling Borough Council Replacement Local Plan (GCRP) (Certain Policies Saved) 2008, which states that:

‘Planning permission will be granted for development provided it is in accordance with other Local Plan policies and the proposals meet the following criteria:

- a. it is of a high standard of design which has regard to the appearance of the area and does not adversely affect the area by reason of its scale, bulk, form, layout or materials;
- b. it would not have a significant adverse effect on the amenities of adjoining development or the locality in general, by reason of the level of activities on the site or the level of traffic generated;
- c. development proposals are to include adequate provisions for the safe and convenient access and circulation of pedestrians and vehicles. In this regard, particular attention will be paid to the needs of disabled people, cyclists, pedestrians and people with young children;

Human Rights

2.21 Under the Human Rights Act, it is necessary for the Authority to have regard to the rights of the owner and occupier of a site under Article 1 of the First Protocol to peaceful enjoyment of possessions and the protection of property and under Article 8 of the convention to respect for his private and family life, his home and his correspondence’.

2.22 In considering whether to take any enforcement action, the Council has to consider the proportionality of its actions. In other words whether the proposed action would be proportionate to the objective being pursued – here the enforcement of planning control in support of National and Local Planning Policies. It is recognised that issuing an enforcement notice or taking court proceedings in the Magistrates Court if the notice is not complied with, will result in interference with the recipients’ rights. In this instance, it is considered that issuing a notice requiring the cessation of the caravan storage in the first instance would be a proportionate response to rectifying the breach of planning control relating to the material change of use of the land.

Equalities

2.23 The Enforcement section operates in accordance with Planning Enforcement Policy and is largely dictated by legislation which reduces the risk of discrimination in this service. The Council is accountable to the public, including its stakeholders, for its decisions both to take enforcement action and not to utilise its enforcement powers. There is a legitimate expectation of the public and stakeholders that the Council will take action to address breaches of planning by

such means as are appropriate and which are in accordance with the Council's policy and government legislation.

- 2.24 The Council strives for a consistent approach in targeting its enforcement action. This means that the Council will take a similar, but not the same, approach to compliance and enforcement decisions within and across sectors. It will strive to treat people in a consistent way where circumstances are similar. Each case however will be evaluated on the basis of its own facts and circumstances but will ensure that decisions or actions taken in any particular case are consistent with the law and with the Council's published policies. It should be noted that decisions on specific enforcement actions may rely on professional judgment. The Council will usually only take formal enforcement action where attempts to encourage compliance have failed as in this case.

Crime and Disorder

- 2.25 The Crime and Disorder Act 1998 places a duty on the local planning authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on the integrity of the planning system and the setting of a precedent if action is not taken is therefore a material consideration in the authorisation of enforcement proceedings.

3 CONCLUSION

- 3.1 Although the tree house requires planning permission, no application has been received. Although it is considered to be contrary to Green Belt policies there are no detrimental impacts on neighbours, or on the real openness of the Green Belt or on the protected trees as advised by the Council's tree officer. Government's advice is that enforcement action should only be taken when it is expedient to do so and I recommend in this instance there are no planning reasons to take formal action over this matter.
- 3.2 However, the storage of caravans is out of character to the open countryside and an inappropriate use of land in the Green Belt and no special circumstances have been given which override the harm caused to the openness of the Green Belt. Allowing the use to continue contrary to local and national policies would set a precedent for storage of an increased number of caravans (as indicated by owner as his intention) or for other such uses, to the detriment of the Green Belt.
- 3.3 In policy terms the caravan storage is classed as inappropriate development as it does not fall within any of the small number of specific categories of development set out within the NPPF as being appropriate within the Green Belt
- 3.4 The owner of the land has declined to submit a planning application for the retention of the storage use and continues to operate in breach of planning control. If enforcement action is not taken it is likely the number of caravans on the site will increase and with the passage of time will become out of the control of the local planning authority. As a result an enforcement notice should now be issued requiring the cessation of the caravan storage use. If necessary, court action should be taken to ensure compliance with the notices.

4 RECOMMENDATION

- 4.1 That the Service Manager, Development Services be authorised to take all enforcement action including the service of any necessary enforcement notices and proceedings through the courts in conjunction with the Director of Organisational Development & Democratic Services to ensure the cessation of the caravan storage.**
- 4.2 It is also recommended that no further action is taken in relation to the tree house.**