



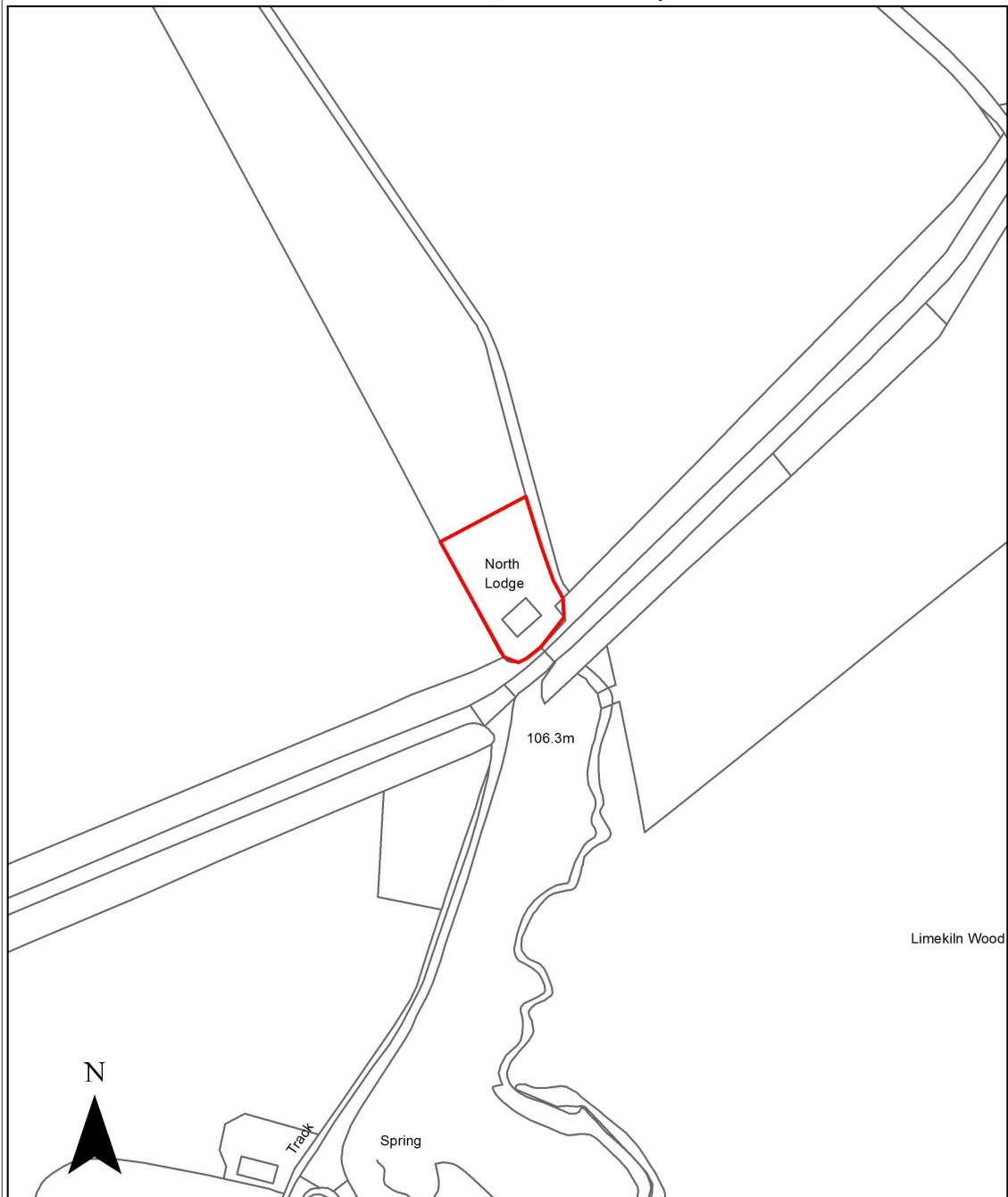
Enforcement Report for 0151/2016

1:1,250

Enforcement Reference: 0151/2017

Location

Land At West Lodge, Station
Avenue, Newstead Abbey Park



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PLANNING ENFORCEMENT REPORT

Reference; 0151/2016
Location; Land at West Lodge, Station Avenue, Newstead Abbey Park, Nottinghamshire NG15 8GE
Breach of Planning Control; Unauthorised construction of a bridge and storage of a shipping container.

1 Background

- 1.1 In summer 2015, it was brought to the Council's attention that certain works had been carried out at West Lodge; a Grade II listed building in Newstead Abbey Park, without planning permission or listed building consent. As a result a retrospective planning application and an application for listed building consent (Reference 2016/0101 and 2016/0185 respectively) were made in February 2016 to rebuild an outbuilding and erect various garden features, including a bridge and gazebo.
- 1.2 On the advice of officers, the gazebo and the bridge were removed from the applications and the owners were subsequently instructed to remove both structures from the land.
- 1.3 On the 14th October 2016 a second application was submitted seeking retrospective permission to retain the circular gazebo structure and the bridge complete with rails which are positioned over the stream in the residential garden of the property. (Reference 2016/1088).
- 1.4 The application was refused by the Council on the 9th December 2016. An appeal against the Council's decision was immediately submitted but on the 5th June 2017 the Council's decision was upheld by the Planning Inspectorate when the appeal was dismissed.
- 1.5 During recent visits to the site, officers have noted the gazebo has been removed but the bridge remains on the land and in addition a green metal shipping container has now been positioned in the adjacent field to West Lodge in the approximate location where stables have been granted planning permission under reference 2015/0379. The container, which measures approximately 3m X 2.5m, does not have the benefit of planning permission but was not considered as part of the appeal.
- 1.6 Contact was made with the owners who stated they knew their appeal had been dismissed and they agreed they would have to remove the gazebo and the bridge but they wanted to relocate the structures to another property they own and they requested time to complete the work. They also agreed the green shipping container in the adjacent field did not have planning permission but they stated it was there as a temporary measure until the stables for which they do have permission are built.
- 1.7 A letter was sent from the Council to the owners on [insert date] to advise they had until the 25th July 2017 to remove the unauthorised structures before the Council considered taking formal enforcement action.

- 1.8 The site was visited by officers on the 1st November 2017 and it was seen the bridge and the green shipping container are still on the land. There has been no further communication from the owner.

2 Site Description

- 2.1 West Lodge is a detached single storey residential property dating from 1862 and is built in stone in a Gothic Revival style. It is a Grade II Listed Building standing within the Nottinghamshire Green Belt, a Grade II* Registered Park and Garden, which forms part of the setting to Newstead Abbey which is a Grade I Listed Building. In addition, the land is part of a Mature Landscape Area as identified in the Proposals Map of the Gedling Borough Replacement Local Plan (Certain Policies Saved) 2005.
- 2.2 The site is positioned on Station Avenue near to the south west entrance of the Newstead Abbey estate which was built following the building of the railway in Newstead Village.
- 2.3 The property is bounded by a dwarf stone wall with plain iron railings and a wicket gate to the front of the property. It has been extended to the rear and consent was granted to rebuild an outbuilding and provide various garden features. The side of the property to the west is marked by a stone wall with open fields beyond and to the east the property is bounded by a stream. The back garden leads into woodland and there are mature trees along Station Avenue on both sides of the frontage.

3 Planning History

3.1

Reference	Proposal	Decision	Date of Decision
2011/1093 and 2011/1094	Erection of a single storey rear extension attached to the principal listed building by a glazed link	Dismissed on appeal	16.11.2011
2012/0044 and 2012/0045	Revised proposal for a single storey extension attached to the principal building by a glazed link	Conditional permission	13.03.2012
2013/ 0660 and 2013/0669	Retention of a chimney stack on the extension, amendments to the fenestration and refurbishment of an outbuilding to the rear of the property to create a garden studio and LB consent to retain roof lights on the roof slope of the extension and a 2m high close boarded fence and gate on the field side of the property.	Conditional permission	07.10.2013
2014/0733 and 2014/ 0734	Discharge of conditions application.	Acceptable	02.12.2014
2015/0380 and 2015/0389	Applications to retain the glazed link to the outbuilding which had been rebuilt without planning permission and LB consent.	Application withdrawn and the additions to the glazed link removed after the threat of enforcement action.	Withdrawn

2015/0379	New stables with a tack room and hay barn in the adjacent field with a field gate off Station Avenue.	Conditional permission	02.03.2016
2016/0101 and 2016/0185	Retrospective PP and LB consent to rebuild the outbuilding and erect various garden features including crushed stone driveway, oil tank, external heating boiler, pond and circulatory water feature together with sunken hot tub.	Conditional permission	14.09.2016
2016/1088	Retrospective application for the erection of a gazebo and bridge	Refused permission and subsequent appeal dismissed	5 th June 2017

4 Assessment

- 4.1 Although the gazebo has now been removed, the bridge which crosses a stream and provides access into the adjacent field remains in place. The green shipping container which the owner states is being used to store equine feed and equipment, measures approximately 2.5m X 3m X 2.9m high and also remains on the adjacent land.
- 4.2 Planning permission is required for the bridge over the stream due to it being a raised platform above 0.3m in height. The container also requires planning permission as it is outside of the curtilage of the dwelling in the adjacent field and is not being used for agricultural purposes.

Planning considerations

- 4.3 The main planning considerations are;
- Whether the bridge and the green shipping container are inappropriate development in the Green Belt
 - The effect of the bridge and shipping container on the setting of the Grade II listed building West Lodge and the character of the Grade II* listed Newstead Abbey Historic Park and Garden
 - If the development is inappropriate, whether the harm is outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Green Belt

- 4.4 The unauthorised bridge is separated from the main dwelling by a raised pond and area of hardstanding and is therefore considered as a curtilage building rather than an extension to the host building.
- 4.5 The bridge is 3.5 metres in length with a 1 metre high spindle decorative fence along each side. The green storage container is approximately 7.5 sq. metres and 2.9 metres high. The structures are therefore of a substantial size and have a degree of permanence and as such they can all be considered to be buildings in their own right.
- 4.6 Glimpses of the bridge and green container can be gained from Station Avenue between the trees and boundary treatments at the front of West Lodge. Although Station Road is a private road, it still provides access to other properties and is used by local residents. From this location the bridge is viewed alongside a host of other domestic feature including a large pond,

water feature and areas of hard landscaping and cumulatively the unauthorised development has a greater impact on the openness of the Green Belt than the site had previously without these structures.

- 4.7 The essential characteristics of the Green Belt are the openness and its permanence. By introducing new buildings of this size into the curtilage of the host building and the adjacent paddock where previously there were none, the development has reduced the openness of the Green Belt and Paragraph 89 of the National Planning Policy Framework (NPPF) is therefore relevant. It states the construction of new buildings should be regarded as inappropriate development in the Green Belt.
- 4.8 Local Plan Policy ENV28 indicates that curtilage buildings will be permitted in the Green Belt but the Planning Inspector in his decision letter of the 5th June 2017 when dismissing the appeal pointed out that the NPPF does not include such provisions and he had therefore attached significant weight to the NPPF as the most up to date policy regarding the construction of new buildings in the Green Belt.
- 4.9 The Inspector concluded that the bridge is inappropriate development in the Green Belt. It is reasonable in this circumstance to conclude if the shipping container had been part of the appeal, the inspector would have had a similar view of the shipping container. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

The setting of West Lodge and Newstead Abbey Park.

- 4.10 There is a statutory requirement to have special regard to the desirability of preserving a listed building and its setting or any features of special architectural or historic interest which it possesses (sections 16 and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990)
- 4.11 The Planning Inspector in his appeal decision considered the unauthorised structure is subservient to West Lodge and that it does not detract from the traditional front elevation of the host property and the siting of the development against the backdrop of mature trees; use of materials and open design further limit its visual impact and when approaching from the south west the bridge is hidden from view.
- 4.12 However, the Inspector went on to note that these were substantial works which have been carried out in the garden which already includes a circular water feature, a pond a raised area of garden, gates, fences and areas of hard standing and when viewed alongside this proliferation of domestic features the gazebo and bridge had resulted in a cluttered garden space which undermines and erodes the historic and architectural relationship between the property and the wider estate which is an important part of its heritage significance.
- 4.13 The shipping container positioned in the adjacent paddock is also an alien feature against the backdrop and erodes the openness of the agricultural field or pony paddock.
- 4.14 The Inspector considered the cumulative impact of the gazebo and the bridge as harmful to the setting of West Lodge and in turn to the character of the Newstead Abbey Registered Park and Garden of which it forms part. Although the harm is less than substantial as defined by the NPPF, it is still material. Whilst the gazebo has now been removed, it is considered the bridge continues to be harmful and have an unacceptable impact. The addition of the shipping container close to the garden boundary but in the

adjacent field is also considered harmful to the setting of West Lodge and the character of the Listed Park and Garden.

Very special circumstances

4.15 At the appeal the Inspector considered the very special circumstances put forward by the appellant including;

- The gazebo and bridge have been erected on previously developed land and forms part of a long established residential curtilage. The final bullet point of paragraph 89 of the NPPF allows limited infilling or the partial or complete redevelopment of previously developed land whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development.
- West Lodge was previously in a state of disrepair and it has been carefully restored.
- Due to the limited size of the house, the gazebo and bridge provide additional much needed useable outdoor space which has improved the standard of living accommodation for the occupiers of the property.
- Other examples of development which either exists or has been granted planning permission by the Council in and around the Newstead Abbey estate, including other gazebos.
- Allowances given to residential properties under the General Permitted Development Order 2015 which do not apply in this case as the site relates to the curtilage of a Grade II listed building.
- The contribution to the long term residential use of an important Grade II listed building within the Newstead Abbey Estate which was redundant for many years.

4.16 Although the Inspector considered these are all benefits that weigh in favour of the scheme, he concluded these factors do not clearly outweigh the harm to the openness of the Green Belt and the significance of designated heritage assets.

Human Rights

4.17 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 except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

4.18 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 pursuing formal proceedings in the Magistrates Court if the notice is not complied with, will result in interference with the recipients' rights. However, it is considered that issuing a notice in the first instance would be a proportionate response to

rectifying the breach of planning control taking place and depending on compliance with the notice it might well be justified to take court action.

Equalities

- 4.19 The Council's Enforcement team operates in accordance with the Council's 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.
- 4.20 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

- 4.21 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.
- 4.22 In light of all the facts it is now considered expedient to serve an enforcement notice to require the removal of the gazebo, bridge and shipping container.

5 Conclusion

- 5.1 The bridge and shipping container are inappropriate development in the Green Belt. The NPPF states that inappropriate development is harmful to the Green Belt and that substantial weight should be attached to that harm. The development is also harmful to the openness of the Green Belt, to the setting of the Grade II listed West Lodge and in turn to the character of the Grade II* listed Newstead Abbey Historic Park and Garden.
- 5.2 The Planning Inspector in his appeal decision letter stated; "The very special circumstances put forward by the owner do not outweigh the harm by reason of inappropriateness, the harm to the openness of the Green Belt and to the significance of the designated heritage assets. As a result, the very special circumstances necessary to justify granting planning permission do not exist".
- 5.3 The owner has declined to remove the unauthorised structures voluntarily and in light of the appeal decision enforcement action is necessary to rectify the breach of planning control

6 Recommendation

- 6.1 **That the Service Manager, Development Services in conjunction with the Director of Organisational Development & Democratic Services be authorised to take all necessary enforcement action including the service of any enforcement notices and proceedings through the courts to ensure the bridge, associated fence and the green shipping container be removed from the land.**

