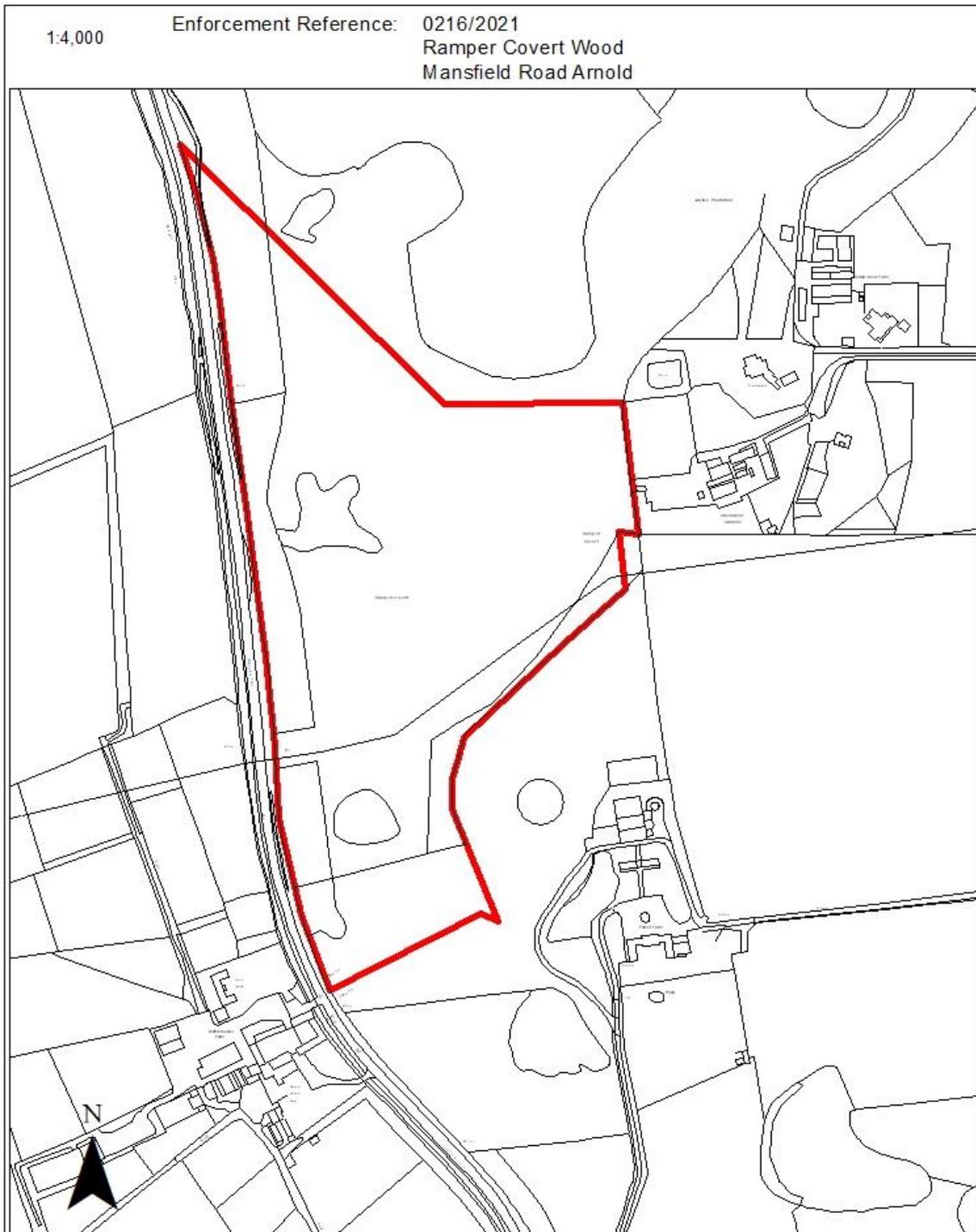


## Planning Enforcement Report for 0216/2021



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 Number:** 0216/2021

**Location:** Ramper Covert Wood Mansfield Road Arnold.

**Breach of Planning Control:** **Unauthorised change of use from woodland to events venue with associated erection of 2 no. joined tipi tents, erection of a stage and siting of a WC trailer, trailer mounted cabin and seating.**

### 1 Background

- 1.1 In August 2020, the Council received a complaint alleging the site was being used for events without planning permission with associated buildings having been constructed and the access widened.
- 1.2 Upon investigation, the officer concluded that the events being undertaken met the parameters permitted under Schedule 2 Part 4 Class B of the General Permitted Development Order (GPDO) 2015, such that the temporary use of the land for events had not exceeded 56 days. The number of permitted days had temporarily increased from 28 days to 56 until 31<sup>st</sup> December 2020 under the Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020. Furthermore, the officer concluded that the structures on site were temporary and moveable and were permitted under the GPDO. It was also concluded that a new access had not been created, but an old one reinstated. The file was closed due to there being no identified breach of planning control.
- 1.3 During the process of the 2020 enforcement investigation, planning application 2020/0552 was pending consideration. This application sought the change of use of the land to a 20 pitch campsite, a mobile WC block, communal tipi and alterations of existing access for a period up to 2023 (see below planning history).
- 1.4 On 13<sup>th</sup> April 2021, the Planning Officer dealing with a subsequent application (2021/0338) seeking permission for a change of use of the land and temporary siting of a double tipi and a WC trailer between May 31<sup>st</sup> and Oct 31<sup>st</sup>, emailed the owner of the site to clarify permitted development rights in relation to siting of the tipi and associated structures as part of a temporary use.

- 1.5 In May 2021, application 2021/0338 was refused and an appeal lodged in June 2021.
- 1.6 In June 2021 the Council received complaints relating to the erection of a tipi tent on site on 14<sup>th</sup> June. The Town and Country Planning (General Permitted Development) (England) (Amendment) Regulations 2020 extended the 56 day permitted development allowance until 31<sup>st</sup> December 2021. As such, the development was considered permitted until such time as the 56 days had expired. Until such time there would be no breach of planning control.
- 1.7 On 9<sup>th</sup> August 2021, the Council received confirmation from the complainant that the tipi tent was still present on site meaning it had been on site for 58 days. Between 14<sup>th</sup> June and 9<sup>th</sup> August, the Council had received regular updates from the complainant regarding the on-going presence of the tipi tent.
- 1.8 On 16<sup>th</sup> September 2021, the appeal against the refusal of application 2021/0338 was dismissed. The Inspector concluded that the proposals for the siting of the tipi, WC trailer and other associated features would have a degree of permanence and would have a moderate harmful effect on openness and also that the development would significantly harm highway safety. They also concluded that very special circumstances did not exist with regards to the proposals.
- 1.9 No further events are understood to have taken place on the site during 2021 after the date of the appeal decision.
- 1.10 On 11<sup>th</sup> February 2022, a planning application was received for change of use of land to form seasonal, green, carbon negative, wedding venue (1st June - 31st August inclusive) including the siting of two linked tipis, WC trailer and renewable energy system (2022/0172). The proposals were very similar in nature to those proposed in the 2021/0388 application. The only differences being the proposed use of a renewable energy trailer and the dates of use for the site.
- 1.11 On 24<sup>th</sup> April 2022, the Council received notification from a member of the public that a tipi had been erected on site on 23<sup>rd</sup> April, considered to be day 1 of the 28 days allowed under permitted development.
- 1.12 On 4<sup>th</sup> May 2022, Planning Contravention Notices (PCNs) were served on both the owners and the operator of the site.
- 1.13 Responses to the PCNs were received by the owner of the site and operator on 20<sup>th</sup> and 25<sup>th</sup> May 2022 respectively.
- 1.14 In summary, the PCN responses provided confirmation that the site has 12 bookings for 2022 for the period subject to planning application 2022/0172 (1<sup>st</sup> June-31 August 2022) and that at the time of the PCN being served no events

had taken place. However, they also confirmed that they had erected the tipi tents on site and had use of the WC trailer for use over the summer season. Events listed for 2021 indicated that the events on site had not been limited to weddings, having included yoga workshops, private corporate events, public music and food events.

- 1.15 On 16<sup>th</sup> June 2022, emails were sent to both the owner and the operator clarifying the permitted development status of the temporary use, which had exceeded the 28 days allowed under the GPDO for 2022. The emails instructed that all unauthorised structures and those associated with a temporary use of the land that have been on site for more than 28 days in total need removing from site as a matter of urgency. It also clarified that no further temporary uses can be implemented during 2022.
- 1.16 On 17<sup>th</sup> June 2022 the operator responded to the email disagreeing with the Council's assessment of the development under permitted development rights, stating that they should not be considered under the GPDO as the change of use and associated facilities had been applied for, with their appeal against refusal of application 2022/0172 still pending.
- 1.17 On 21<sup>st</sup> June 2022 the Council's Enforcement Officer and a Planning Officer visited the site and met with the site owner. On entering the site, there were 2 separate areas used for vehicle parking, adjacent to the A60 at the front of the site. The access track was laid with loose stone atop natural ground and guides visitors to the central part of the site where there is a clearing. A post and rail fence approximately 1.2m in height dissects 2 areas of clearing. 2 no. joined tipi tents, beige in colour and approximately 10m deep, 23m wide and 7.5m high were located in a clearing in the middle of the site. A stage of wooden construction with a wooden frame and canvas/tarpaulin covering with string lights was located immediately south of the tipi tents. The owner confirmed that he had not given consent for the erection of this. A small green coloured WC trailer was located to the west of the tipi tents close to the edge of the clearing. When asked, the owner said this was for the sole use of the operator for their events. A timber cabin with glazed door set upon a trailer was positioned to the northern edge of the clearing. The owner said this was used for storage. Bench seating, tables and picnic benches were located in the clearing. The owner advised that the site had been prepared for a wedding later that day with seating and wooden archway present in the woodland to the north of the clearing. Lighting in the form of string lights wrapped around the internal support structure of the tipis and stage, and low level lighting was present on site. Signage was provided within the site denoting location of WCs, exit etc.
- 1.18 During the site visit, the owner advised that booked events for 2022 were not isolated to weddings. He advised that some limited camping takes place, mostly by those working on the site.

- 1.19 On 5<sup>th</sup> July 2022 emails were sent to the owner and operator of the site clarifying the Council's position with regards to potential enforcement action. The email acknowledged that the aim of the planning application and current appeal is to gain planning permission to operate the change of use, thus not relying on the permitted development 28 day rule. However that at the present time such permission does not exist for the site. Therefore, any activities on site are assessed against the 28 day permitted development allowance, currently being the only means of operating the business in an authorised manner on site. In addition there is a stage that has been erected to the side of the tipi that does not form part of the current planning appeal details.
- 1.20 Numerous complaints have been received on a rolling form of near daily emails from complainants documenting activity on site. The main points raised include:
- The tipi has remained on site since 23<sup>rd</sup> April 2022
  - Camper vans staying on site overnight
  - Advertising of camping provision on site by the operator
  - Road mounted lit signage on the A60 during events
  - Lighting in the proximity of the tipi tent visible from the A60
  - Loud music audible from residential properties until late in the evening
  - Circa 40+ vehicles on site at a time
- 1.21 The operator of the site advertises the venue on a dedicated website as well as via social media pages such as Facebook and Instagram. According to their website customers have exclusive hire of the whole venue and woodland including "use of our Giant Hat Tipis, rustic bench seating for up to 120 people, onsite toilets, lighting, electricity and water supply. Use of our bijou cabin and camping spaces is included in the price."
- 1.22 No further contact has been received from either the owner or the operator of the site. However the unauthorised use of the site and associated structures and facilities remains.
- 1.23 It is therefore necessary to consider enforcement action for the unauthorised change of use as an events venue with associated erection of 2 no. joined tipi tents, erection of a stage, siting of a WC trailer, trailer mounted cabin and seating.

## **2 Site Description**

- 2.1 The site is located on the eastern side of the A60 Mansfield Road north of an existing lay bay. It is located approximately 1.5 miles from the northern edge of the urban area of Redhill. The site occupies an area of approximately 1 hectare.
- 2.2 The site is an area of mixed woodland consisting of trees protected by Tree Preservation Order 000129 (Ramper Covert) and a belt of trees running roughly

parallel with the A60 that are part of the Sherwood Estate/Kighill Road Tree Preservation Order N0005 and N0028.

- 2.3 The site is at a higher ground level with the land rising steeply to the East away from the A60. There is a large clearing to the centre of the site and smaller clearings to the west of the site on approach from the A60 access. There is an access laid to a thin layer of stone on the surface of the natural ground.
- 2.4 The site is located within the Nottingham-Derby Green Belt.

### **3 Planning History**

**2018/1172** – Planning permission for a change of use to site 15no. log cabins and 1no. reception/staff accommodation was refused 2<sup>nd</sup> August 2019 on the following summarised grounds:-

- The material impact on openness of the Green Belt in terms of built form, the formation of an access and urbanisation of the site by virtue of parked vehicles and associated infrastructure such as lighting and signage;
- Insufficient information submitted to fully assess the impact of the proposal and the access arrangements on the trees, particularly the trees that are protected by the Kighill Road Tree Preservation Order.

A subsequent appeal was dismissed on the 27<sup>th</sup> November 2019.

**2019/0785** - Planning permission for a change of use to site 5no. log cabin holiday homes (mobile homes) and formation of vehicular access was refused 2019 on the following summarised grounds:-

- The material impact on openness of the Green Belt in terms of built form, the formation of an access and urbanisation of the site by virtue of parked vehicles and associated infrastructure such as lighting and signage;
- The traffic generated by the proposed development would have an adverse impact on through traffic and a likely source of unacceptable danger to other users of the highway, particularly because of the heavy volumes of traffic using A60 Mansfield Road; and
- Insufficient information submitted to fully assess the impact of the proposal and the access arrangements on the trees, particularly the trees that are protected by the Kighill Road Tree Preservation Order.

A subsequent appeal was dismissed on the 2<sup>nd</sup> June 2020.

**2020/0549** – Planning permission was refused in March 2021 for the change of use of the land for a natural burial ground and modifications to the access was refused on the grounds of the proposals material impact on openness of the

Green Belt in terms of the formation of an access to meet Highway Authority requirements and urbanisation of the site by virtue of parked vehicles and associated infrastructure such as lighting and signage. No very special circumstances were demonstrated to outweigh such harm. A subsequent appeal was dismissed in September 2021 (appeal ref. APP/N3020/W/21/3272871)

**2020/0552** – Planning permission was refused in March 2021 for the change of use of the land to a 20 pitch campsite, a mobile WC block, communal tipi and alterations of existing access for a period up to 2023 on the grounds of the proposals material impact on openness of the Green Belt in terms of the formation of an access to meet Highway Authority requirements and urbanisation of the site by virtue of parked vehicles and associated infrastructure such as lighting and signage. No very special circumstances were demonstrated to outweigh such harm. A subsequent appeal was dismissed in September 2021 (appeal ref. APP/N3020/W/21/3272020)

**2020/0645**- Planning permission was refused in April 2021 for the erection of a shed for the purposes of storage in relation to a proposed Woodland Management scheme on the following summarised grounds:-

- Its impact on and harm the openness of the Green Belt by virtue of the siting and scale of the proposed building and no very special circumstances were demonstrated to outweigh such harm; and
- Insufficient information submitted to fully assess the impact of the proposal on the trees, particularly the trees protected by Tree Preservation Order 000129 (Ramper Covert) and the Sherwood Estate/Kighill Road Tree Preservation Order N0005 and N0028.

A subsequent appeal was allowed in September 2021 (appeal ref APP/N3020/W/21/3272865).

**2021/0338** – planning permission was refused in May 2021 for Change of use of the land and temporary siting of a double tipi and a WC trailer between May 31st and Oct 31<sup>st</sup> on the following summarised grounds:-

- The material impact on openness of the Green Belt in terms of the formation of an access to meet Highway Authority requirements and urbanisation of the site by virtue of parked vehicles and associated infrastructure;
- The traffic generated by the proposed development would have an adverse impact on through traffic and a likely source of unacceptable danger to other users of the highway, particularly because of the heavy volumes of traffic using A60 Mansfield Road; and
- Insufficient information submitted to fully assess the impact of the proposal on the trees, particularly the trees protected by Tree Preservation Order 000129 (Ramper Covert) and the Sherwood Estate/Kighill Road Tree Preservation Order N0005 and N0028.

A subsequent appeal was dismissed in September 2021. (appeal ref. APP/N3020/W/21/3276147).

**2021/0422** – Planning permission was refused in July 2021 for the siting of a storage unit for forestry workings on the following summarised grounds:-

- Its impact on and harm the openness of the Green Belt by virtue of the siting and scale of the proposed building and no very special circumstances were demonstrated to outweigh such harm; and
- Insufficient information submitted to fully assess the impact of the proposal on the trees, particularly the trees protected by Tree Preservation Order 000129 (Ramper Covert) and the Sherwood Estate/Kighill Road Tree Preservation Order N0005 and N0028.

**2021/0424** – planning permission was refused in July 2021 for the change of use of the site to natural pet burial ground on the following summarised grounds:-

- The traffic generated by the proposed development would have an adverse impact on through traffic and a likely source of unacceptable danger to other users of the highway, particularly because of the heavy volumes of traffic using A60 Mansfield Road given that there is no enforceable mechanism for the LPA to control access arrangements. Additionally, the proposed use of the nearby layby to provide parking to serve the site would also raise highway safety concerns as a result of vehicles hesitating to find a space to park. Its use would also promote pedestrian movements from the layby along the section of the A60 to the site which has no footway provision to the detriment of pedestrian safety; and
- Lack of information submitted in relation to the position of burial plots to allow full assessment of proposal on trees protected by Tree Preservation Order 000129 (Ramper Covert) and the Sherwood Estate/Kighill Road Tree Preservation Order N0005 and N0028.

A subsequent appeal was dismissed in February 2022 (appeal ref. APP/N3020/W/21/3283174)

**2022/0172**-Planning permission was refused on 11<sup>th</sup> April 2022 for the change of use of land to form seasonal, green, carbon negative, wedding venue (1<sup>st</sup> June-31<sup>st</sup> August inclusive) including the siting of two linked tipis, WC trailer and renewable energy system. The application was refused on the grounds summarised as:

- The proposal would result in a use that does not fall within the exceptions of development identified in the NPPF as being appropriate and in built form and ancillary structures in an area that there have previously been none. This will have a material effect on openness of the Green Belt
- Insufficient information in the form of an up to date Transport Statement, Speed Survey and Road Safety Assessment has been deposited with the application to fully assess the impact of the proposal on highway safety. Furthermore insufficient details have been provided to demonstrate that adequate off street parking could be provided within the application site.
- Insufficient information in the form of an up to date Ecology Survey relating to the application site submitted to fully assess the impact of the proposal ecology and biodiversity within the site.

An appeal against this decision has been made and is currently pending consideration by the Planning Inspectorate.

## **4 Assessment**

- 4.1 Although 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 2021 (NPPF) (Paragraph 59) 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.
- 4.2 The site is located within the designated Nottinghamshire Green Belt and therefore the main considerations when deciding whether to take enforcement action in this case are;
- whether the development constitutes inappropriate development in the Green Belt;
  - the effect of the development on the openness of the Green Belt and the character and appearance of the surrounding area;
  - whether the harm caused by inappropriateness and any other harm are clearly outweighed by other considerations and if so, whether very special circumstances exist that justify the granting of planning permission.
  - the impact on residential amenity
  - highway safety
  - whether the Local Planning Authority is within the statutory time limit for taking action for unauthorised development.

### Planning considerations

4.3 The following policies are relevant to the application:

National Planning Policy Framework

- Section 2 Achieving Sustainable Development summarised as summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.
- Section 6 Building a Strong Competitive Economy which identifies the need to allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.
- Section 9 Promoting Sustainable Transport which outlines the need to consider transport issues.
- Section 12 Achieving Well-Designed Places sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.
- Section 13 (Protecting the Green Belt) outlines at paragraph 137 the importance the Government attaches to Green Belts and the aim of Green Belt policy to prevent urban sprawl and to retain its essential openness and permanence.

Aligned Core Strategy

4.4 At a local level, Gedling Borough Council at its meeting on 10th September 2014 adopted the Aligned Core Strategy (ACS) for Gedling Borough (September 2014) which is now part of the development plan for the area. The adopted ACS forms Part 1 of the new Local Plan for Gedling Borough. It is considered that the following policy of the ACS is relevant:

- ACS Policy 1: Climate Change states that all development will be expected to mitigate against and adapt to climate change including with respect to flood risk.
- ACS Policy 2: The Spatial Strategy states that sustainable development will be achieved through a strategy of urban concentration with regeneration.
- ACS Policy 3: (The Green Belt) establishes the principle of retaining the Nottingham Derby Green Belt.
- ACS Policy 4 – (Employment Provision and Economic Development) states that the economy of the area will be strengthened and diversified by encouraging economic development of an appropriate scale to diversify and support the rural economy.
- ACS Policy 10: (Design and Enhancing Local Identity) sets out the criteria that development will need to meet with respect to design considerations.

- ACS Policy 13: Culture, Tourism and Sport which sets out that tourism facilities of more local importance would be supported providing they are located in or adjoining town or district centres or existing facilities improved
- ACS Policy 16: Green Infrastructure, Parks and Open Space sets out the strategic approach to the delivery, protection and enhancement of Green Infrastructure

### Local Planning Document

4.5 In July 2018 Gedling Borough Council adopted the Local Planning Document (LPD). The following LPD policies are relevant to this breach of planning control:

- LPD18 – Protecting and Enhancing Biodiversity - sets out that proposals should be supported by an up to date ecological assessment. Any harmful impact should be avoided through design, layout and mitigation or compensation. Where possible, development proposals will be expected to take opportunities to incorporate biodiversity in and around the development and contribute to the establishment of green infrastructure
- LPD 19 - Landscape Character and Visual Impact states that planning permission will be granted where new development does not result in significant adverse visual impact or significant adverse impact on the character of the landscape.
- LPD23 – Greenwood Community Forest and Sherwood Forest Regional Park sets out that permission will be granted which supports the aims and objectives of the Greenwood Community Forest and Sherwood Forest Regional Park.
- LPD24 – Tourist Accommodation sets out that planning permission will be granted for tourist accommodation providing that it is not in the Green belt or accords with green Belt policy and it would not have a significant impact on the amenity of neighbouring properties.
- LPD 32 (Amenity) states that planning permission will be granted for development proposals that do not have a significant adverse impact on the amenity of nearby residents or occupiers, taking into account potential mitigation measures.
- LPD 57: (Parking Standards) – sets out the requirements for parking.
- LPD 61: (Highway Safety) – states that planning permission will be granted for developments that do not have a detrimental impact upon highway safety, movement and access needs.

## Green Belt

- 4.6 Crucial in the consideration of the principle of this development is paragraph 137 of the NPPF with regard to protecting Green Belt Land and the following issues are relevant and require addressing. Paragraph 149 of the NPPF specifies that construction of new buildings in the Green Belt should be regarded as inappropriate. Furthermore paragraph 147 states that “inappropriate development is, by definition, harmful to the green belt and should not be approved except in very special circumstances”.
- 4.7 Paragraph 149 provides an exception for the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) providing it would not have a greater impact on the openness of the Green Belt than the existing development or would not cause substantial harm to the openness of the Green Belt.
- 4.8 Paragraph 150 at sub paragraph e) of the NPPF also identifies that material changes of use of land (such as changes of use for outdoor sport and recreation) may be considered appropriate development in the Green Belt again providing that they preserve the openness and do not conflict with the purposes of including land within the Green Belt.
- 4.9 In their appeal decision relating to refusal of 2021/0338, the Inspector determined that the proposals, which mirror those subject to the enforcement case, would not be inappropriate development unless it would have a greater impact on the Green Belt openness and purposes. It is therefore important to assess impact on openness.
- 4.10 Whilst there is no specific definition of openness in the NPPF, there are numerous high court decisions that have explored this area. Openness has both a spatial and visual aspect. Interpretation of spatial openness naturally includes the absence of built form. Openness and visual impact have different meanings and any development can harm the openness of the Green Belt regardless of its aesthetic appearance or obtrusiveness. In summary openness can be seen as the lack of built form and not by development that is screened from view.
- 4.11 The Inspector concluded that the proposals for the siting of the tipi, WC trailer and other associated features would have a degree of permanence and would have a moderate harmful effect on openness. As such in line with paragraph 147 and 148 of the NPPF substantial weight should be given to such harm unless very special circumstances are demonstrated which would outweigh the harm.

## Very Special Circumstances

- 4.12 In determining whether very special circumstances exist, the following need to be assessed;
- Any individual factor taken by itself which clearly outweighs the harm caused to the Green Belt,
  - Whether some or all the factors in the case when taken as a combination clearly outweigh the harm caused to the Green Belt

- 4.13 The case must be decided on the planning balance and for very special circumstances to exist the benefits must be demonstrated to clearly outweigh the harm to the Green Belt that is inherent in its development. As part of the 2022/0172 application, the applicant put forward what they consider to be the social, economic and environmental benefits of the proposal which they consider would outweigh the harm to the Green Belt identified above. These include economic benefits to the local economy by virtue of supporting local businesses, facilities, services and attractions the creation of employment, and the provision of low carbon facilities.
- 4.14 Although there may be some economic benefits from an increase in visitors to the Borough, based on the 2022/0172 proposals for the current unauthorised use, this would only be for a three month period each year. The commercial activity provides employment generation, this would again be very modest and for a limited period of the year. When balanced against harm to the Green Belt setting of the site and the reasons for including the land within it, the benefits of the unauthorised use and associated operational development would not be so significant to outweigh the identified harm to the Green Belt by virtue of the development being inappropriate. The development is therefore in conflict with the principals of the NPPF, ACS Policy 3 and LPF 15, which aims to maintain openness.
- 4.15 The material change of use and associated operational development does not fall within any of the exceptions given in paragraphs 149 or 150 of the NPPF and must therefore be considered as inappropriate development and by definition, harmful to the Green Belt. It results in unacceptable encroachment contrary to the five purposes that Green Belt serves as set out in paragraph 138 of the NPPF and to ACS Policy 3. This conclusion is supported by the Inspectors comments in relation to the 2021/0338 appeal.

#### Impact on residential amenity

- 4.16 The unauthorised change of use on site has introduced a potential source of noise and disturbance from events held on site and associated vehicle movements. The Council has received complaints regarding noise emanating from the site as a result of at least 2 separate events held at the site, whereby music was alleged to be heard at volume at the complainant's property until 11pm in the evening. Whilst this has not been verified by the Council, it is possible that amplified music such as this would be heard at a large event and would be audible beyond the site boundary and further afield. The topography on site largely protects against noise transmission but would not completely negate the need for consideration of noise levels during events. The site owner indicated during the site visit, that the majority of events held on site utilised acoustic or low noise music choices. However, there is no indication this has been a requirement of event bookings or accounts for all past and future bookings.

#### Impact on Character and Appearance of the Area

- 4.17 The change of use of the site and associated operational development has had the effect of urbanising an area that has no such element. Whilst the woodland remains on site to offer some screening, there are still views into the site to the structures, associated activities, vehicle parking areas and associated lighting.
- 4.18 Taking this into account it is considered that the development has resulted in undue harm to the landscape character and wider landscape setting of the site and is contrary to Section 12 of the NPPF, Policy 10 of the ACS and LPD 19.

#### Highway Safety

- 4.19 The Highway Authority have raised concerns with regards to the recent planning application 2022/0172 as well as previous application including 2021/338. Concerns related to parking provision and highway safety. The Inspector, in the decision relating to application 2021/0338 was in agreement with this position, stating “in the absence of substantive evidence to the contrary, the appeal scheme would give significant rise to potential vehicular conflict on the A60, particularly due to the high volume of traffic and the associated speeds, and the lack of any improvements to the existing access, including the provision of a ghost island on the carriageway that are required to provide necessary mitigation.”
- 4.20 It has therefore been concluded that the unauthorised development would have an unacceptable adverse impact on highway safety contrary to Section 9 of the NPPF (2021), Policies LPD 57 and LPD 61 of the LPD (2018).

#### Time Limits

- 4.21 The statutory time limit for taking action for operational development is 4 years from when the development is substantially completed and ten years for a material change of use. In this case it is considered the Council is within time to commence enforcement proceedings such as issuing an enforcement notice requiring the unauthorised development to be removed and for the unauthorised use of the site to cease.

#### Human Rights

- 4.22 Under the Human Rights Act 1998, it is unlawful for a public authority to act in a way which is incompatible with a right under the European Convention on Human Rights (the Convention). In this instance under Article 1 of the First Protocol of the Convention: Protection of Property, every person is entitled to the peaceful enjoyment of their possessions except in the public interest and subject to conditions provided for by law. Furthermore under Article 8 of the Convention all individuals enjoy the right to respect for their private and family life, their home and their 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.

- 4.23 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 an enforcement notice and pursuing Court action if the enforcement notice is not complied with, would be a proportionate response to the breach of planning control.

#### Equalities

- 4.24 The Council's Planning 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 in the individual circumstances and which are in accordance with the Council's policy and government legislation.
- 4.25 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

- 4.26 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.

### **5 Conclusion**

- 5.1 A breach of planning control has been identified. The development has resulted in significant harm to the openness of the Green Belt, adverse impact on highway safety and harm to residential amenity.
- 5.2 The breach conflicts with both national and local policies. Failure of the Council to act in these circumstances will result in an unauthorised change of use and associated operational development.

- 5.3 Evidence available to the Council indicates the unauthorised change of use commenced within the last 10 years and associated operational development completed within the last 4 years. Furthermore there are no very special circumstances that exist to justify the change of use or operational development of this site within in the Nottinghamshire Greenbelt.
- 5.4 The Council should now commence enforcement action without delay by issuing a planning enforcement notice requiring the cessation of the unauthorised change of use of the site as an events venue and removal of all associated structures and facilities including 2 no. joined tipi tents, wooden framed stage, trailer mounted timber cabin, WC trailer, seating, tables and wooden archway.

## **6 Recommendation**

- 6.1 **That the Head of Development and Place, in conjunction with the Head of Governance and Customer Services, be authorised to take all relevant planning enforcement action including the service of any necessary enforcement notices and issue of proceedings through the courts, if required, to ensure the cessation of the unauthorised change of use of the site as an events venue and removal of all associated structures and facilities including 2 no. joined tipi tents, wooden framed stage, trailer mounted timber cabin, WC trailer, seating, tables and wooden archway.**