

**Application Number:** 2014/0657  
**Location:** Bestwood Country Park Bestwood Lodge Drive Bestwood Nottinghamshire



**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 No. LA 078026  
Unauthorised reproduction infringes Crown copyright and may lead to prosecution of civil proceedings

## **Report to Planning Committee**

**Application Number:** 2014/0657

**Location:** Bestwood Country Park Bestwood Lodge Drive Bestwood Nottinghamshire

**Proposal:** To allow the change of use of land from public park (sui generis) to a pitch for the siting of an ice cream van (A1 use)

**Applicant:** Mrs Jane Richardson

**Agent:**

**This application is being brought to Committee due to the applicant being Gedling Borough Council.**

### **Site Description**

The application site relates to the car park area adjacent to the access driveway leading up to Bestwood Country Park.

The car park is located to the south of the former lodge, which is now a hotel, and the Nottinghamshire Fire Service Head Quarters.

The car park is surfaced in tarmac and is divided with numerous mature trees. A detached flat roof brick toilet block is sited to the north west corner of the car park.

The car park is located within the Green Belt and is also designated as Protected Public Open Space and a Mature Landscape Area.

### **Planning History**

An application seeking planning permission for the change of use of part of the car park to allow the positioning and trading of 2 mobile catering vehicles was deposited in September 2014. This application was subsequently withdrawn in November 2013 – application ref. 2013/1110.

### **Proposed Development**

Full planning permission is now sought for the change of use of an area of land within the existing car park from land (Sui Generis) to allow the siting of an ice cream van A1 (Retail).

The proposed maximum hours of summer time trading between 1<sup>st</sup> April and 1<sup>st</sup> October would be 9am to 8pm and 9am – 5 pm between 1<sup>st</sup> October and 1<sup>st</sup> April winter time trading.

An email was received on the 23<sup>rd</sup> June 2014 confirming that the ice cream van would leave the site at the end of each trading day.

A supporting statement has been received on the 26th June 2014 to demonstrate very special circumstances.

## **Consultations**

Nottinghamshire County Council (Highway Authority) – No highway concerns are raised.

Gedling Borough Council (Planning Policy) – No comments have been received at the time of writing. The Statutory consultation period for representations is until 4<sup>th</sup> July 2014 and any consultation responses will be reported verbally at Committee.

Nottinghamshire Police Architectural Liaison - No comments have been received at the time of writing. The Statutory consultation period for representations is until 4<sup>th</sup> July 2014 and any consultation responses will be reported verbally at Committee.

Gedling Borough Council (Licensing) - No comments have been received at the time of writing. The Statutory consultation period for representations is until 4<sup>th</sup> July 2014 and any consultation responses will be reported verbally at Committee.

Gedling Borough Council (Food, Health and Safety) – It is requested that traders who sell the ice cream are registered to operate as a food business with a local authority and that they have been inspected.

Gedling Borough Council (Public Protection) - No comments have been received at the time of writing. The Statutory consultation period for representations is until 4<sup>th</sup> July 2014 and any consultation responses will be reported verbally at Committee.

Gedling Borough Council (Parks and Street Care) - No comments have been received at the time of writing. The Statutory consultation period for representations is until 4<sup>th</sup> July 2014 and any consultation responses will be reported verbally at Committee.

Neighbouring properties have been consulted and a site notice posted - No comments have been received at the time of writing. The Statutory consultation period for representations is until 4<sup>th</sup> July 2014 and any consultation responses will be reported verbally at Committee.

## **Planning Considerations**

The main planning considerations in the determination of this application are whether

the change of use of the land and the siting of the ice cream van would constitute appropriate development within the Green Belt, whether there would be an undue impact on the recreational or sporting potential or quality of the public open space and whether the proposal would have an adverse impact on the amenities of neighbouring residential properties or on highway safety.

At the national level the National Planning Policy Framework (March 2012) is relevant. At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF sees good design as a key element of sustainable development.

The following core principles are relevant to this planning application: -

1. Building a strong and competitive economy (paragraph 18 - 22);
9. Protecting Green Belt Land (paragraphs 79-92); and
11. Conserving and enhancing the natural environment (paragraphs 109 – 125)

Paragraph 19 of the NPPF states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

Section 9 of this document relates to 'Protecting Green Belt Land'. It outlines 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.

Paragraph 81 of the NPPF states inter-alia: 'local planning authorities should plan positively to enhance the beneficial use of Green Belt, such a looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.'

Paragraph 87 of the NPPF outlines that inappropriate development is by definition harmful to the Green belt and should not be approved except in very special circumstances.

Paragraph 89 outlines development which is considered appropriate within the Green Belt which includes 'the provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.'

Paragraph 90 states that certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purpose of including land in Green Belt. These other forms of development include engineering operations.

At the local level the following policies of the Gedling Borough Council Replacement Local Plan (Certain Policies Saved 2008) are relevant: -

ENV26 – Control over development in the Green Belt;

ENV1 – Development Criteria;

ENV37, Mature Landscape Areas;

R1 – Protection of Open Space;

R2 – Accessible Public Open Space.

Policy ENV26 states that planning permission will be granted for appropriate development, including that which is required for the purposes of agriculture or forestry, the provision of outdoor sport and recreation facilities and the erection of essential new buildings in association with them, for cemeteries and changes of use of agricultural and other buildings to employment and tourism uses which help to diversify the rural economy.

In all cases appropriate development must be located and designed so as not to harm the openness of the Green Belt or the purposes of including land within it.

Policy ENV37 requires that any development which would have an adverse effect on the visual, historic or nature conservation importance of a Mature Landscape Area will be permitted only where it can be shown that there are reasons for the proposal that clearly outweigh the need to safeguard the area's intrinsic value. Where development is permitted, proposals will be required to minimise the harm to the area. Planning conditions will be imposed in order to secure appropriate mitigation measures.

Policy R1 of the Replacement Local Plan states planning permission should not be granted for development on land that is used as open space. Exceptions to Policy R1 that are listed is where the development would enhance or improve the recreational or sporting potential or quality of the site or if the proposed development is ancillary to the use of the site as a playing field and would not adversely affect the quality or quantity of pitches.

Policy R2 states that planning permission should not be granted for development which would adversely affect access to protected open space. The ice cream van should not obstruct users in the park.

Gedling Borough Council at its meeting on 13<sup>th</sup> February 2013 approved the Gedling Borough Aligned Core Strategy Submission Documents (ACS) which it considers to be sound and ready for independent examination. Consequently, Gedling Borough in determining planning applications may attach greater weight to the policies contained in the Aligned Core Strategy Submission Documents as it is at an advanced stage of preparation with the level of weight given to each policy being dependent upon the extent to which there are unresolved objections (the less

significant the unresolved objections, the greater weight that may be given). It is considered that the following policies are relevant:

Policy 13 – Culture, Tourism and Sport

Policy 16 – Green Infrastructure, Parks and Open Space.

In line with the guidance held within the NPPF significant weight should be placed on the need to support economic growth. The design and access statement states that the proposal is intended to generate income into the Borough Council and allow for trading activity on the park. It is my opinion that the proposal would create a local business opportunity and would support the aims of the NPPF in terms of supporting economic growth.

I am mindful that the proposed change of use of the land to allow for the siting of the ice cream van would not be considered appropriate development in the Green Belt and would, by definition be harmful to the Green Belt.

However, I am mindful that Paragraph 87 of the NPPF states that inappropriate development in the Green Belt should not be approved unless 'very special circumstances' can be demonstrated. During the processing of the application the applicant has submitted a statement outlining the special circumstances that account for the use of the land associated with the ice cream van. The special circumstances include: -

The parks are recreation grounds and as such are well used by members of the public particularly during the summer months. The Ice cream vans/sales will enhance the visitor experience to the park and compliment the facilities available. By enhancing the attractions within the parks we anticipate more park users which will improve the health & well-being of residents. During site surveys with local residents each summer many members of the public requested refreshments to be made available and commented they would spend longer in the park.

The Ice cream van will not be a permanent feature as the licence requirement will dictate the hours of trading and then it will be removed at the end of the trading.

The ice cream van will be sited within the existing car park which is adjacent to the toilet building and we do not consider it will have any negative impact within the environment.

When considering very special circumstances, weight should be given to paragraph 81 of the NPPF which outlines that local planning authorities should plan positively to enhance the beneficial use of Green Belt, such as looking for opportunities to provide access to and opportunities for outdoor sport and recreation.

I am of the view that the proposal would enhance the attractions within the Country Park which may increase the footfall of visitors resulting in a positive impact on the number of service users to the open space.

The proposal is for the change of use of the land, within an existing car park that would not alter the appearance or character of the area and would still preserve the openness of the Green Belt at this location. In addition the proposal would not affect the purposes of including land within Green Belt.

I am of the opinion that the very special circumstance, in this instance, is derived from the fact that there would be no actual impact on openness or any other harm which when combined with the recreational usage benefits of the proposal would outweigh the potential harm to the Green Belt by reason of inappropriateness. I therefore consider that very special circumstances can be demonstrated and that the proposal can be approved in Green Belt terms because it meets the test set out within paragraph 87 of the NPPF, which states that:-

‘in-appropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.’

I am mindful that RLP policies ENV37, R1 and R2 seek to protect the site in question due to its location within a Mature Landscape Area and Protected Open Space. However, I consider that given that the ice cream van, by virtue of its siting within the existing car park and that it will not be a permanent structure and will be removed on a daily basis, there will be no harm to the intrinsic value of or access to the site in this instance.

In addition, I consider that the provision of refreshment facilities for users of the Country Park aids the recreational use of the site, and I therefore consider that the development meets with the aims of Policies ENV26 & R1.

Given the distance from the application site to the nearest neighbouring properties, I am satisfied that the proposal would not result in any undue impact upon the amenity of the occupiers or users of these properties. It is recommended that a condition be attached to ensure that the mobile ice cream van leaves the site after each day of trading and to control the hours of trading.

Issues such as noise and litter would be controlled through Environmental Legislation.

I note that the Highway Authority have raised no objections to the proposal and am satisfied that it would not raise any highway safety or parking issues.

Given the above considerations I am satisfied that the proposed development would have no undue impact on the Green Belt, the Protected Open Space, the amenity of nearby residential properties or on highway safety. In my opinion the proposed development would accord with the guidance contained within the NPPF and the aims and objectives of Policies ENV1, R1 and R2 of the Gedling Borough Council Replacement Local Plan (Certain Policies Saved 2008) and recommend that planning permission be granted.

**Recommendation: GRANT PLANNING PERMISSION subject to no further representation being received that raise material planning considerations and the following conditions;-**

1. The development must be begun not later than three years beginning with the date of this permission.
2. The mobile ice cream van shall only be located on the site as shown outlined in red on the site location plan received by the Borough Council on the 28th May 2014.
3. The ice cream van shall leave the site at the end of each trading day; the trading hours shall be in summer time between 1st April and 1st October between 9am to 8pm and in winter time between 1st October and 1st April between 9am to 5 pm between winter time trading.

**Reasons**

1. In order to comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt.
3. For the avoidance of doubt.

**Reasons for Decision**

In the opinion of the Borough Council the proposal would not impact on the openness of the Green Belt or conflict with the purposes of including land within the Green Belt, would enhance recreational opportunities within the Borough and would not unduly impact upon the amenity of local residents or the wider street scene. The proposal therefore accords with the National Planning Policy Framework (2012) and policies ENV1, ENV26, R1 and R2 of the Gedling Borough Council Replacement Local Plan (Certain Policies Saved 2008).

**Notes to Applicant**

Planning Statement - Planning Officers have worked with the applicant during the consideration of the application thereby resulting in an acceptable scheme and favourable recommendation. The Borough Council has worked positively and proactively with the applicant in accordance with paragraphs 186 to 187 of the National Planning Policy Framework.