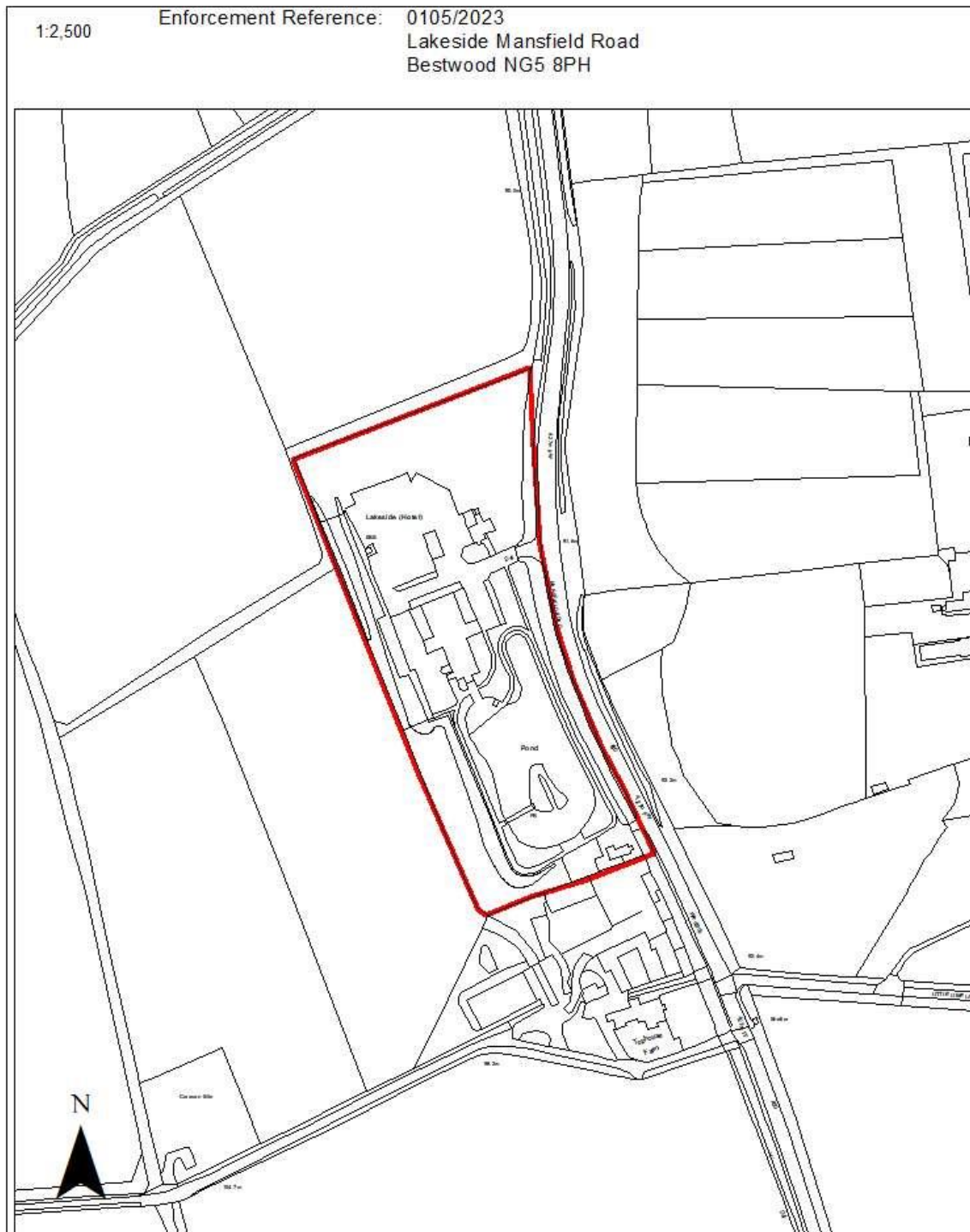


Planning Enforcement Report for 0105/2023



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.
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Report to Planning Committee

Reference Number: 0105/2023

**Location: Lakeside (Former Bestwood Pumping Station)
Mansfield Road, Bestwood NG5 8PH**

Unauthorised Listed Building works: (i) Refurbishment works to the Grade II listed East Lodge, including internal renovations and alterations.
(ii) The reduction of a brick boundary wall and the fixing of a timber fence to the brick boundary wall.
(iii) The removal of Grade II listed gas lamps.
(iv) Addition of metal vent to Grade II* listed former Pumping Station.
(v) Timber fencing affixed to the Grade II* listed former Pumping Station.

Breaches of Planning Control: (i) Construction of outbuildings, car parking area, fencing, hardstanding, lighting columns. (ii) The illegal display of advertisements.

1. The Breaches of Planning Control

- 1.1. There are breaches of both listed building control and planning control on the land. Lakeside (Former Bestwood Pumping Station) has been operating as a restaurant and function venue. The premises are currently closed, but a number of developments have been undertaken on the site to facilitate the business use. The building is grade II* listed and is set within a grade II registered Park and Garden.
- 1.2. In relation to listed building works, there has been a reduction in height of an attached garden wall to the East Lodge and its alteration. The fixing of a timber fence to the garden wall to the east Lodge. The removal of 5 grade II listed Gas Lamps. The construction of a metal vent to the west elevation of the pumping station building. The fixing of timber fencing to the north and west elevations of the former Pumping Station
- 1.3. Section 7 of the Planning (Listed Building and Conservation Area) Act 1990 identifies that: 'no person shall execute or cause to be executed any works for the demolition of a listed building or for its alteration or extension in any

manner which would affect its character as a building of special architectural or historic interest, unless the works are authorised.'

- 1.4. The works listed above do not have listed building consent from the local planning authority and therefore a breach of planning control has occurred. Section 9 of the Act identifies that 'If a person contravenes section 7, he/she shall be guilty of an offence. A criminal offence has therefore been committed on this site.
- 1.5. In planning terms, the land has a sui generis use, there are no permitted development rights applicable and consequently all new development requires planning permission. Therefore, the construction of the outbuildings, extension to car park, fencing, hardstanding and light columns and the unlawful display of the advertisements are all a breach of planning control.

2. Site Description

- 2.1. The former Bestwood Pumping Station is a grade II* listed building. The land surrounding the building is a grade II Registered Park and Garden. The site includes a number of other grade II listed structures including, the East Lodge, the West Lodge, Cooling Pond, the eastern boundary wall, piers and gate and 5 gas lamp columns.
- 2.2. The site lies to the west of the A60 and is within the Nottinghamshire Green Belt. The trees on site are protected by a group Tree Preservation Order (No. G0007). There is a farm holding to the south and open fields to the west and north.

3. Relevant Planning History

- 3.1. 2020/1095 – Planning Application – **Refused**
Retention of external works, including extension to carpark, new fencing within the site, new footpath, new electrical feeder pillars and new external timber ancillary buildings.
- 3.2. 2020/0199 – 2020/0739 – Listed Building Consent – **Refused**
Internal and external refurbishment works to East Lodge. Including decorative works to the interior, replacement of the kitchen, new windows and kitchen door. Remediation works to the courtyard and height alterations to the buttressed wall.
- 3.3. 2020/0199 – Listed Building Consent - **Granted**
Refurbishment and reconfiguration work to the Pumping Station Building.

4. Planning Legislation and Policy

- 4.1. The Town and County Planning Act 1990
Town and Country Planning (General Permitted Development) Order 2015
Planning (Listed Buildings and Conservation Areas) Act 1990:

- Section 66(1)

Town and Country Planning (Control of Advertisement) Regulations 2007

Policy Considerations

4.2. The following policies are relevant to the assessment of this case:

National Planning Policy Framework

4.3. Chapters in the NPPF:

- Part 12 – Achieving Well-Designed Places
- Part 13 – Green Belt
- Part 16 – Conserving and Enhancing the Historic Environment

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 policies of the ACS are relevant:

- ACS Policy 3: (The Green Belt)
- ACS Policy 10: (Design and Enhancing Local Identity)
- ACS Policy 11 (The Historic Environment)

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:

- 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.
- LPD 26 (Heritage Assets) states that development that would cause harm to the significance of a heritage asset will be refused unless there are overriding public benefits.
- LPD 27 (Listed Buildings) states that development should protect the significance of the heritage asset including its setting. Development should conserve and/or enhance the architectural character, historic fabric and detailing of the original building.
- LPD 29 (Historic Landscapes, Parks and Gardens) states that development affecting Registered Parks and Gardens should seek to conserve and/or enhance features which form part of the significance of the asset and ensure development does not detract from the enjoyment, layout, design,

character and appearance or setting of the Registered Park or Garden including key views.

- 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, patterns of movement and access needs.

5. Consultee Responses

- 5.1. Consultation response has been received from the Council's Conservation and Heritage Officer. The Gardens Trust also made representation on the refused planning application (2020/1095) and their comments have been considered. Historic England were consulted and deferred to the Council's own Heritage advisor.

6. Background / Investigation

- 6.1. The former Bestwood Pumping Station building has been refurbished and renovated to create a restaurant and function venue. The internal refurbishment works to the main building have listed building consent granted through listed building application 2020/0199. Whilst undertaking a site inspection in relation to the approved listed building works the Council become aware that other works had been undertaken on the site that would require planning permission. The landowner was informed that the works undertaken were a breach of planning control.
- 6.2. The illegal listed building works identified on the site include:
- The reduction in height and alteration of a brick wall attached to the East Lodge.
 - Removal of listed Gas Lamp Columns.
 - Construction of a metal vent on the western elevation of the Pumping Station Building.
 - The fixing of timber fencing to the north elevation and west elevation of the former Pumping Station and the brick courtyard garden wall to the East Lodge.

Reduction of brick wall to East Lodge

- 6.3. From the site visit it was clear that the courtyard wall to the west side of the East Lodge had been reduced in height by 11 courses of brickwork and the gateway arch removed along with the gate. The brick wall is attached to the listed building and therefore it forms part of the listing. Works to reduce the

height of the wall therefore required listed building consent, which it does not have.

- 6.4. The original wall incorporated a stone arch with moulded stone corbels, stone jambs and a stone lintel over the gate. These features have been removed as a result of the wall reduction works. The saddle back stone copings have been reused in the design of the reduced wall.
- 6.5. Single storey outbuildings were also historically present within the courtyard. These have also been demolished. These outbuildings had low mono pitched roofs which abutted the internal elevation of the west wall of the courtyard. The outbuildings were considered to be of a low architectural quality and were in a poor state of repair. Their removal enhances the view of the courtyard wall.
- 6.6. The original brick wall (prior to its unauthorised reduction) was part of a courtyard boundary that provided a private amenity area for the East Lodge. The wall which is joined to the house extends out to the west before creating a rectangular shaped courtyard. The wall then returns eastwards to meet back up with the stepped boundary wall that runs towards Mansfield Road. The original wall was stepped in height and buttresses were positioned at intervals to provide extra support on its external elevation. The original wall was constructed in the same materials that match those used within the East Lodge.
- 6.7. The alterations made to the wall have resulted in a reduced height of the original buttressed detail. The resultant wall is now level to its north and west side elevations. A solid timber plank gate to the gateway entrance was also removed as was a stone foot threshold.

Gas Lamps

- 6.8. The listings for the land identifies that 5 gas lamps should be present on the site. However, none of the gas lamps are currently present on the land. There is a potential that one of the gas lamps appears to have been removed prior to the current landowner taking ownership of the site. However, as a custodian of the land the owner would have been aware of the listing prior to taking ownership. The other 4 gas lamps have been removed whilst under the guardianship of the current landowner. The removal of the gas lamps required listed building consent, which has not applied for. Therefore, their removal is a breach of planning control.
- 6.9. During site visits and within planning statements submitted to the Council reference has been made to the gas lamps being stored on site. The Council has not physically seen the gas lamps and therefore cannot confirm whether the gas lamps are stored on site or not.

Metal Vent

- 6.10. A metal extraction system has been incorporated into the design of the functioning kitchen area of the building. The metal box vent/flue is located on

the rear (west elevation) of the former pumping station building. The extraction system is located within one of the buildings arches.

The fixing of timber fencing to Listed Buildings

- 6.11. Timber fencing has been constructed around 2 of the listed buildings. The fencing physically attachment of the fencing onto the listed building and the listed courtyard wall requires listed building consent.
- 6.12. The fencing has been attached to the listed building to create different areas within the site. To the north elevation of the Pumping Station a private enclosed wedding garden area has been created. To the west of the Pumping Station the fencing demarks the extent of a compound area where wooden clad buildings have been constructed. The fencing attached to the East Lodge courtyard wall encompasses the Lodge to provide a private amenity area.

Other Planning Breaches

- 6.13. To facilitate or expand the service provided as part of the business on the site a number of functional buildings and hardstanding had been constructed. The buildings and hardstanding are located in a variety of places all across the listed Park and Garden. There are also a variety of functional lighting columns. These unauthorised developments are breaches of planning control.
- 6.14. The other planning breaches of planning control identified include:
- Extension to car parking area.
 - Resurfacing and delineation of original car park
 - Staff unit (wooden clad)
 - Storage unit (wooden clad)
 - Food preparation unit (wooden clad)
 - Santa's Grotto building
 - Prosecco Bar hut
 - Barbecue hut
 - Ice Cream hut
 - Bandstand
 - Fencing around the north elevation of the Pumping Station Building.
 - Fencing around the East Lodge.
 - Fencing around the storage, food preparation and staff buildings.
 - Hardstanding's
 - Lighting columns.
 - Well
 - Smoking Shelter
 - Toilets
 - Advertisement Boards on Mansfield Road.

Listed Building and Planning Applications

- 6.15. A listed building application was submitted to the Council in August 2020 (2020/0739) this application sought permission for internal refurbishment

works to the East Lodge and the reduction in height of the brick courtyard wall.

- 6.16. No listed building application was received for the removal of the gas lamps or their repositioning within the site, the construction of a vent on the pumping station building or the timber fencing affixed to either the Pumping Station of the East Lodge courtyard wall.
- 6.17. The listed building application was refused on the 29th March 2023. No further listed building submissions have been made and no appeal has been lodged against the listed building refusal.
- 6.18. A planning application was submitted 2020/1095, this submission sought to gain planning permission for some of the breaches of planning control identified above. The application was also refused on the 29th March 2023. No further planning submissions have been made and no appeal has ever been lodged against the planning refusal.
- 6.19. The landowner had a meeting with Council Officers in May 2023 to discuss the site and the unauthorised developments. The Planning Department informed the landowner that there were particular concerns regarding the reduction in height of the brick boundary wall and the removal of gas lamps and the relocation of other gas lamps on the site. The landowner said that the gas lamps removed have been kept on site. However, officers have not seen the removed gas lamps.
- 6.20. To date no further action has been taken by the landowner and the planning breaches remain on site. The listed brick boundary wall has not been rebuilt and the listed gas lamps have not been returned to their original position. Consequently, the breaches in planning control remain. The Council now consider that formal planning enforcement action now needs to be taken to secure the appropriate planning control over the land, the restoration of the listed features and the removal of the timber fencing fixed to the listed structures.

7. Assessment

- 7.1. The main considerations when deciding whether to take enforcement action in this case are the heritage impact on the listed building, the Grade II Registered Park and Garden and the sites location within the Green Belt. However, impact on the wider amenity of the area must also be considered. To assist in that determination the individual breaches are to be assessed in this report.

Impact on Heritage Assets

- 7.2. There is a statutory requirement under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to desirability of preserving the listed building or its setting or any features of special architectural or historical interest.

- 7.3. Paragraph 203 of the National Planning Policy Framework 2023 (NPPF) states that in determining planning applications Local Planning Authority's should take account of the desirability of new development making a positive contribution to local character and distinctiveness.
- 7.4. Paragraph 205 of the NPPF says that great weight should be given to the conservation of heritage assets, (including listed buildings, conservation areas, and world heritage sites) and any harm to their significance should require clear and convincing justification.

Harm to Designated Asset and Public Benefit

- 7.5. Paragraph 206 of the NPPF details that any harm to, or loss of, the significance of a designated heritage assets (from its alteration or destruction or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of grade II listed buildings should be exceptional.
- 7.6. Paragraph 207 of the NPPF states that where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, Permission should be refused unless there is substantial public benefit.
- 7.7. Paragraph 208 of the NPPF identifies that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the development.
- 7.8. Public benefit should flow from the proposed development. They should be of a nature or scale to be of a benefit to the public at large and not just a private benefit. Public benefits may include:
- Sustaining or enhancing the significance of a heritage asset and the contribution of its setting.
 - Reducing or removing risk to a heritage asset
 - Securing the optimum viable use of a heritage asset in support of its long-term conservation.

The Impact on Green Belt

- 7.9. The Government places great importance on the protection of the Green Belt with the fundamental aim of keeping land permanently open. The appeal site is located within the Green Belt, therefore considerable weight should be given to its protection.
- 7.10. Paragraph 143 of the National Planning Policy Framework 2023 (NPPF) states that the Green Belt serves five purposes: a) to check the unrestricted sprawl of large built-up areas; b) to prevent neighbouring towns merging into one another; c) to assist in safeguarding the countryside from encroachment; d) to preserve the setting and special character of historic towns; and e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

- 7.11. Paragraph 152 of the NPPF states that inappropriate development in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 7.12. Paragraph 153 goes on to state that when considering development, 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 resulting from the proposal, is clearly outweighed by other considerations.
- 7.13. Paragraph 154 of the NPPF provides that the construction of new buildings as inappropriate in the Green Belt but identifies certain exceptions to this. This would include exceptions in terms of the provision of appropriate facilities in connection with the existing use of land for outdoor sports and outdoor recreation, as long as the facilities preserve openness and do not conflict with the purposes of including land within the Green Belt. A replacement of building is also acceptable providing the building is in the same use and not materially larger than the one it replaces.
- 7.14. Inappropriate development in the Green Belt is by definition harmful. Therefore, in order for development to be acceptable, very special circumstances must exist to not only bring the development back to a neutral impact but must clearly outweigh any harm.

Impact on Landscape Character

- 7.15. Policy LPD19 of the Local Planning Document 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. Inappropriate development will have an impact on the landscape value of the Registered Park and Garden.

Listed Building Control Breaches

Reduction of the brick boundary courtyard wall to the East Lodge

- 7.16. The original brick wall formed part of the character, setting and appearance of the East Lodge. Its original built form was part of the special architectural and historical interest of the building. Within the planning statement that accompanied the refused application reference was made to the wall being reduced to allow more light into the building. The reason given for removing the wall does not provide the sufficient justification to allow such development or constitute a public benefit.
- 7.17. The loss of the upper part of the boundary wall is considered harmful to the special architectural and historical interest of the listed building. The reduction in height and alteration works are detrimental to the historical character and significance of the original wall, which provided an enclosed and private courtyard to the East Lodge. This formed parts of its setting, separating it from the rest of the Registered Park and Garden. The works also impact on

how East Lodge is viewed and appreciated from the former pumping station and the grade II* registered Park and Garden, changing their historical relationship.

- 7.18. Paragraph 208 of the NPPF identifies that where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the development. In this case the wall reduction is considered to cause less than substantial harm. There is no identified public benefit to the works.
- 7.19. The works have not been sufficiently justified and do not preserve the listed building or its setting or any features of special architectural or historical interest. There are no public benefits associated with the works and as such the wall reduction works are contrary to the provisions of the NPPF, policy ACS 11 and policies LPD26, LPD27 and LPD29 of the Local Planning Document.

Gas Lamps

- 7.20. The gas lamps were listed on 27th April 1987 and are individually listed, although noted as having group value as part of the pumping station. Their removal takes away from the original landscape design of the park and Garden as ornate lamps c1871 that contribute to the setting of the Pumping Station and have historical interest relating back to before the use of electricity. No justification has been provided for the gas lamps removal. Historical evidence and the listing description provides evidence of their appearance and locations. The gas lamps removal is considered harmful to the setting of both the former Pumping Station and the registered Park and Garden.
- 7.21. The loss of the gas lamps can be categorised as substantial harm since they are wholly removed from the site and listed in their own right. The removal of the lamps is considered to have no public benefit at all. The gas lamps removal denies the local community the opportunity to see the listed gas lamps and their association with the former pumping station. As such the removal of the gas lamps is contrary to the provisions of the NPPF, policy ACS 11 and policies LPD26, LPD27 and LPD29 of the Local Planning Document.

Metal Vent/Flue System

- 7.22. The addition of a metal vent/flue system to the former pumping station building is considered harmful to the appearance of the listed building. It results in the presence of a modern metal box feature that punctures the rear wall of the former pumping station building. No regard has been taken in relation to the design of an appropriate extraction system. The vent has resulted in the loss of historic fabric and is harmful to the setting of the grade II* former Pumping Station. No mitigation has been considered in order to minimise the harm caused so that this can be weighed against any identified public benefit.

7.23. The metal vent/flue causes localised harm which can be categorised as less than substantial harm. The need for the extraction system has never been provided, but it may be required to allow the building to operate as a restaurant/function venue. The potential need to have an extraction system on the building, if it can be justified may therefore represent some small benefit to the community as a building, which when operational, had been brought back into use. The venue provided a place where the community could meet for social gatherings. However, in the absence of any justification for the presence of the extraction system the less than substantial harm to the historic fabric and setting of the listed building is considered to outweigh any public benefit generated by the building's use. As such the construction of the extraction system is contrary to the provisions of the NPPF, policy ACS 11 and policies LPD26, LPD27 and LPD29 of the Local Planning Document.

Fencing fixed to the listed building

7.24. 2m high solid timber fencing has been attached to both the listed Pumping Station and the courtyard brick wall to the East Lodge.

7.25. The fencing is secured into the fabric of the listed buildings and is considered harmful to the character and setting of the listed buildings. The level of harm is less than substantial, and no public benefit arises from the works. As such, the attachment of the fencing to the listed building is contrary to the provisions of the NPPF, policy ACS 11 and policies LPD26, LPD27 and LPD29 of the Local Planning Document.

Planning Control Breaches

Car Park Extension

7.26. To the north of the former pumping station building is the original car park area. The owners have extended the car park north into a previously undeveloped part of the site. The internal roadway has then been resurfaced with tarmac and heavily delineated. The parking bays have been constructed using gravel crates.

7.27. The expansive use of the tarmac hard surface is considered harmful and a highly inappropriate form of development. The surfacing by virtue of the materials chosen and surface signage is considered harmful to the appearance and setting of the listed building and the grade II Listed Park and Garden. The extension of the car park is also considered a wholly inappropriate form of development within the Green Belt. The additional hardstanding creates an urban encroachment into the countryside, which reduces openness and has an impact on the spatial and visual aspect of this Green Belt which is harmful to both its character and visual appearance. The development is also detrimental to the landscape value of the Park and Garden. As such, the car park extension is contrary to the provisions of the NPPF, policies ACS 3, ACS 10 and ACS 11 and policies LPD19, LPD26, LPD27 and LPD29 of the Local Planning Document.

Wooden Clad Staff and Storage Units

- 7.28. Metal units, clad in wood have been sited to the west of the former pumping station building. The buildings are approximately 24x6 metres, 17x6 metres and 6x3 metres in size. When the premises were operational the units were used for staff facilities, storage and food preparation purposes. The grouping of the units, the addition of further tarmac hardstanding and the construction of the associated wooden fencing around their periphery has resulted in the creation of a type of commercial compound area on the site. The resultant works are considered an overdevelopment of the western part of the site. The development blocks views of the listed building and interrupts the open visual relationship between the station building and the Park and Garden. The development is therefore harmful to the setting of both the listed building and the registered park and garden.
- 7.29. The metal clad units are an inappropriate form of development which are by definition harmful to the Green Belt. The buildings do not benefit from any of the exemptions listed in the NPPF. The buildings by virtue of their size and siting are an encroachment into the countryside that causes harm to the openness, character and appearance of the Green Belt. The development is also detrimental to the landscape value of the Park and Garden. As such, the timber clad units are contrary to the provisions of the NPPF, policies ACS 3, ACS 10 and ACS 11 and policies LPD19, LPD26, LPD27 and LPD29 of the Local Planning Document.

Other New Buildings

- 7.30. A number of other ancillary buildings have been constructed on the site. These include the Santa's Grotto located on the west bank; the prosecco bar and barbecue hut sited on the decking to the south of the main building; the wooden structures located to the east of the main building and the other structures located around the site including the well, toilets and smoking shelter.
- 7.31. The Santa's Grotto has been built on a raised high embankment on the western edge of the garden. The wooden building is single storey in size and has been located in an area where there are no other buildings or built form. The grotto is highly visible not only within the site, but from the neighbouring A60, which is a main arterial route through the Borough. The building is considered harmful to the setting of the listed building and the landscaped Listed Park and Garden due to its prominence within the site. The open bank forms the boundary to the site and contributes to the character of the site. The location of the grotto, the functional design and choice of materials are considered inappropriate in relation to the historical context of the building. The grotto is also considered to be an inappropriate form of development within the Green Belt. The grotto does not benefit from any of the exemptions listed in the NPPF. The building is an encroachment into the countryside which causes harm to the openness, character and appearance of the Green Belt. The development is also detrimental to the landscape value of the Park and Garden. As such the Santa Grotto is contrary to the provisions of the NPPF, policies ACS 3, ACS 10 and ACS 11 and policies LPD19, LPD26, LPD27 and LPD29 of the Local Planning Document.

7.32. The Prosecco Bar and Barbecue Hut are located on the decking adjacent to the cooling pond. A number of timber huts are located to the east of the main station building. The timber huts have been located in close proximity to the pumping station building without justification for their presence or appraisal of the impact that they have. The number and variety of wooden huts by virtue of their functional incongruous design, location and choice of materials are considered harmful to the setting of the grade II* former Pumping Station Building. The presence of the timber huts on the land is also considered harmful to the historic landscape setting of the Registered Park and Garden as the huts add unsympathetic built form into the open landscape area which diminishes the historic landscape value of the heritage asset. As such, the Prosecco Bar and Barbecue hut are contrary to the provisions of the NPPF, policies ACS 3, ACS 10 and ACS 11 and policies LPD19, LPD26, LPD27 and LPD29 of the Local Planning Document.

Bandstand

7.33. An octagonal wooden bandstand has been built to the north of the East Lodge. The structure is painted white with a traditional design, it has a raised timber stage and a natural slate roof. The building is considered to be representative of the period in which the garden was established. However, due to the structures size and proximity to the East Lodge the development is considered harmful to the setting of the adjacent listed building.

7.34. Furthermore, in Green Belt terms, the bandstand is considered to be an inappropriate form of development. The bandstand does not benefit from any of the exemptions listed in the NPPF. The building is an encroachment into the countryside which causes harm to the openness, character and appearance of the Green Belt. The development is also detrimental to the landscape value of the Park and Garden. As such the Bandstand is contrary to the provisions of the NPPF, policies ACS 3, ACS 10 and ACS 11 and policies LPD19, LPD26, LPD27 and LPD29 of the Local Planning Document.

Site Wide Fencing

7.35. Planning permission is required for any new wall, gate, fence or her means of enclosure within the curtilage of a listed building, as detailed by Part 2 Class B of the General Permitted Development Order 2015. Any fencing constructed therefore represents a breach of planning control.

7.36. New close boarded wooden fencing has been constructed around the northern elevation of the listed pumping station building and affixed to it. This fencing demarks the extent of a wedding garden area that has been created within the site. The fencing is considered wholly inappropriate, it harms the setting of the listed pumping station building by blocking the visual appreciation of the north elevation of the building from the landscape surroundings in which the asset is experienced. The fencing also harms the landscape setting of the Registered Park and Garden by introducing a visually prominent enclosure using inappropriate solid fencing that interrupts the open visual relationship between the pumping station building and its associated park and garden. This is also true of the solid timber fencing erected to the rear west side of the main station building which encloses the compound at its north and south ends.

7.37. New solid closed boarded fence has also been built around the East Lodge. The East Lodge is listed separately, but it also forms part of the curtilage to the main pumping station building. There is no historical evidence of a fence within this garden. The East Lodge has always been seen and appreciated in views from the Park and Garden. The fencing is considered to be inappropriate development as it harms the setting of both the East Lodge and the Pumping Station building. The fencing blocks views of the principal elevations of the East Lodge. This impacts upon the setting of the East Lodge as the asset is appreciated in its surroundings. Furthermore, views of the pumping station building are blocked from the ground floor level of the East Lodge. The fencing also impacts upon the open landscape character of the Registered Park and Garden. As such, the fencing is contrary to the provisions of the NPPF, policies ACS 3, ACS 10 and ACS 11 and policies LPD19, LPD26, LPD27 and LPD29 of the Local Planning Document.

Lighting Columns, Decorative Well, Smoking Shelters and Toilets

7.38. There are a number of free-standing light columns located to the east front, south and north sides of the main building. While some lights may be needed there has been no justification given for the number, specific location or design of the lights. Cumulatively they add clutter to the open landscape character of the park and garden and are therefore harmful because of this.

7.39. A decorative well has been erected to the south side of the main building and is inappropriate as it does not respect the historic open landscape character of the Park and Garden and is harmful to the setting of the listed building.

7.40. A Smoking Shelter and toilets are located to the rear of the building and individually and cumulatively they add clutter to the landscape character of the registered park and garden while being of inappropriate design and harmful to the setting of the listed station building.

7.41. As such, the Lighting Columns, Decorative Well, Smoking Shelter and Toilets are contrary to the provisions of the NPPF, policies ACS 3, ACS 10 and ACS 11 and policies LPD19, LPD26, LPD27 and LPD29 of the Local Planning Document.

The Illegal Display of Advertisements

7.42. Illegal advertisement boards are displayed to the front of the brick boundary wall. There are 2 disproportionately large advertisements boards, each located approximately 35m to the north and south of the access point. There are also a number of other smaller advertisements boards located just off the highway. The advertisement boards all require advert consent and their display is unlawful. The 2 larger advertisements due to their size are visually inappropriate and in combination with the other advertisements displayed creates a cluttered appearance to the front of the site detrimental to the amenity of the wider area. As such, the display of the advertisements is contrary to the provisions of part 12 of the NPPF and policy 10 of the ACS.

Green Belt: Very Special Circumstances

- 7.43. The range of buildings, huts and car parking areas have been provided to support the functioning venue. However, clear justification for the unauthorised permanent features has not been provided.
- 7.44. The Council would have to acknowledge that the operation of a successful venue will have some social and economic benefits. However, the successful operation of the business will not depend fully upon the extended car park or the siting and construction of the unauthorised buildings. The landowner has never provided clear reasoning as to why the function of the individual unauthorised buildings could not be met inside the original building or why alternative parking solutions and designs could not be implemented.
- 7.45. Therefore, in the planning balance although some minor weight can be attributed to the economic benefit. The Council does not consider that this benefit outweighs the clear harm that has been created within the Green Belt location.

Impact on Residential Amenity

- 7.46. There is only one farm holding that is located immediately to the south of the former pumping station site. The unauthorised development such as the new buildings are set away from the residential property. Consequently, the impact on residential amenity of the unauthorised development is not considered to be any different to the authorised use of the site.

Overall Assessment

- 7.47. The report has referenced the individual breaches/developments of both listed building and planning control to enable the committee to appreciate the scale of the works carried out on the site. However, when finally assessing the site and what enforcement action is required the Council also has to have clear regard to the accumulated impact of all these developments.
- 7.48. In heritage terms the developments listed above all cause harm to the setting of the listed buildings on the site and the listed Park and Garden. The harm in relation to the Gas Lamps is substantial, whereas the harm for all the other developments outlined is considered to be less than substantial in accordance with paragraphs 207 and 208 of the NPPF.
- 7.49. The provision of the additional commercial facilities on the site is not considered to provide any public benefit, particularly given that the premises are now closed and have been for a substantial period of time. The redevelopment of the main station building was welcomed and reduced a risk to a listed building. But the additional buildings and structures have not been justified and the developments created are considered harmful. Neither are there any other material planning considerations that outweigh the less than substantial harm resulting from the development. Accordingly, the unauthorised developments are contrary to policy 11 of the ACS, policies LPD26, LPD27 and LDP29 of the Local Planning document and section 16 of the NPPF.

- 7.50. In Green Belt terms, the unauthorised developments are considered to be inappropriate development by definition, which are harmful to the openness, character and appearance of the Green Belt. Accordingly, the developments are contrary to policy 3 of the ACS and section 13 of the NPPF.
- 7.51. In landscape terms the development is considered to affect the wider landscape value of the area. The unauthorised development is therefore contrary to ACS 10, policy LPD19 and section 12 of the NPPF.

8. Other Considerations

Human Rights

- 8.1. 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.
- 8.2. 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, which in this case is 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

- 8.3. The Council's Planning Enforcement team operates in accordance with the Council's 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.
- 8.4. 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 Councils 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

- 8.5. 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.

9. Enforcement Option

- 9.1. Although the above development has occurred without planning permission a local planning authority is required to consider Government legislation when deciding whether to take planning enforcement action. Paragraph 59 of the National Planning Policy Framework 2023 (NPPF) states that effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary and local planning authorities should act proportionately in responding to breaches of planning control.

Expedient Enforcement Action

- 9.2. Given the assessment above Listed Building Enforcement action should be taken against the reduction and alteration of the brick boundary courtyard wall, the removal of the gas lamps, the construction of the extraction system and the fixing of the timber fences into the listed buildings. Failure to seek a planning solution to these breaches would not be acceptable and would be damaging to the long-term heritage value of the listed buildings.
- 9.3. Planning enforcement action should also be pursued against, the extension to the car park, the outbuildings constructed, the fencing around the compound area and the East Lodge, the hardstanding, the lighting columns and the advertisement boards.
- 9.4. There are genuine planning reasons why these developments are unacceptable. Failure to seek a planning solution to these breaches would not be acceptable and could lead to a lack of confidence in the planning system.

10. Conclusion

- 10.1. To date, the breaches of planning control remain. The unauthorised listed wall reduction and alteration, the removal of the listed gas lamps, the construction

of the extraction system and the fixation of the timber fencing all alter a listed structure and the appreciation of the building in its setting in a manner which would affect its character as a building of special architectural or historic interest. The unauthorised developments therefore conflict with the provisions of the NPPF, policy 11 of the ACS and policies, LPD26, LPD27 and LPD29 of the Local Planning Document.

- 10.2. The unauthorised car park extension, buildings, fencing, hardstanding and lighting columns impact on heritage value, green belt policy and landscape value. The unauthorised developments therefore conflict with national policy, policies 3, 10 and 11 of the ACS and policies, LPD19, LPD26, LPD27 and LPD29 of the Local Planning Document.
- 10.3. Given there are clear reasons to reject the unauthorised development, the commencement of enforcement action is warranted and the appropriate course of action.
- 10.4. In this case the listed building enforcement action to be pursued must be:
 - The total reinstatement of the original wall to the East Lodge.
 - The reintroduction of the gas lamps on to the land.
 - Removal of the metal extraction system from the Pumping Station building and the repair and reinstatement of the brickwork.
 - The removal of the timber fencing from its attachment to the historic brickwork of the listed buildings and the repair of the brickwork.
- 10.5. In relation to the planning breaches the planning enforcement action to be pursued must be the total removal from the land of all the unauthorised development and signage as identified expedient to pursue in this report.
- 10.6. The following steps should now be undertaken:
 - The service of a listed building enforcement notice under section 38 of the Planning (Listed Building and Conservation Areas) Act 1990.
 - The service of an enforcement notice under section 172 of the Town and Country Planning Act 1990.
 - The commencement of prosecution proceedings for the illegal display of an advertisement under section 224 of the Town and Country Planning Act 1990.
- 10.7. These courses of action will restore the land to its condition before the breaches took place and will remedy the injury to amenity which has been caused by the breaches of planning control, as required by section 173(4) (a&b) of The Act. These actions will also uphold the appropriate planning control of the land.

11. Recommendation

- 11.1. **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 restoration of the listed buildings to their former**

condition, the removal of the unauthorised development and the removal of the unlawful advertisements.