

**Item No:**

**Application Reference Number:** P/19/1562/2

<b>Application Type:</b>	Full (retrospective)	<b>Date Valid:</b>	1/8/2019
<b>Applicant:</b>	Meggit		
<b>Proposal:</b>	Installation of 14 floodlights to the building's exterior and erection of security camera tower in the front car park		
<b>Location:</b>	Davey House Gelders Hall Road Shepshed Leicestershire LE12 9NH		
<b>Parish:</b>	Shepshed	<b>Ward:</b>	Shepshed West
<b>Case Officer:</b>	Louise Winson	<b>Tel No:</b>	07864 603398

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## **1. Background**

- 1.1 The application has been called in at the request of the Ward Councillor Radford citing the following planning considerations of concern:
- The amount of flood lights proposed for this building.
  - Residents have raised concerns regarding the existing lights which are causing light pollution to their homes and to the wildlife on Jubilee Walk.
  - Whether this application is retrospective or are these floodlights over and above those already in place.

## **2. Description of the application site**

- 2.1 The site is situated on the north side of Gelders Hall Road. It comprises a sizeable unit occupying a large plot accessed directly from Gelders Hall Road, which is enclosed by palisade fencing. The premises are set towards the rear eastern side of the plot and the sizeable forecourt is dedicated to parking, loading and circulation space.
- 2.2 The site is located within an industrial estate with employment uses either side and opposite. However, to the rear (north) it is bounded by Jubilee Way – a footpath set amongst mature landscaping – beyond which are residential properties on Belvoir Way and Windsor Drive.

## **3. Description of the proposal**

- 3.1 This planning application seeks permission to retain 14 floodlights attached to the building and a CCTV tower within the front car park. The floodlights are distributed as follows:
- 3 on the front elevation facing the forecourt
  - 2 on the end, north west facing, elevation;
  - 8 on the rear, north east facing, elevation
  - 2 on the end, south east facing, elevation.

3.2 The camera tower is 14m high, of lattice construction, situated in the car park towards Gelders Hall Road.

#### **4. Development Plan Policies**

4.1 The Development Plan comprises the Charnwood Local Plan Core Strategy (adopted 9 November 2015), the Borough of Charnwood Local Plan (adopted 12 January 2004) (saved policies) and the Minerals and Waste Local Plan (2019).

4.2 The policies applicable to this application are as follows:

##### [Charnwood Local Plan Core Strategy](#)

- Policy CS1 – Development Strategy
- Policy CS2 – High Quality Design
- Policy CS6 - Employment and Economic Development
- Policy CS8 - Regeneration of Shepshed
- Policy CS13 – Biodiversity and Geodiversity
- Policy CS25 - Presumption in Favour of Sustainable Development

##### 4.3 [Borough of Charnwood Local Plan \(adopted 12 January 2004\) \(saved policies\)](#)

Where they have not been superseded by Core Strategy policies previous Local Plan policies remain part of the development plan. In relation to this proposal the relevant ones are:

- Policy EV/1 – Design

##### 4.4 [Minerals and Waste Local Plan \(2019\)](#)

This document includes the County Council's spatial vision, spatial strategy, strategic objectives, and core policies which set out the key principles to guide the future winning and working of minerals and the form of waste management development in the County of Leicestershire over the period to the end of 2031.

Policy M11 seeks to safeguard mineral resources including sand, gravel, limestone, igneous rock, surface coal, fireclay, brick clay and gypsum. The policy sets out that planning permission will be granted for development that is incompatible with safeguarding minerals within a Mineral Safeguarding Area provided certain criteria are met.

Planning applications for non-mineral development within a Mineral Safeguarding Area should be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to it.

## 5. Other material considerations

### 5.1 [The National Planning Policy Framework \(NPPF 2021\)](#)

5.1.1 The NPPF policy guidance of particular relevance to this proposal includes:

- Section 2: Achieving sustainable development
- Section 4: Decision making
- Section 12: Achieving well-designed places.
- Section 15: Conserving and enhancing the natural environment

### 5.2 [Planning Practice Guidance](#)

This national document provides additional guidance to ensure the effective implementation of the planning policy set out in the National Planning Policy Framework. The guidance sets out relevant guidance on aspects of flooding, air quality, noise, design, the setting and significance of heritage assets, landscape, contaminated land, Community Infrastructure Levy, transport assessments and travels plans, supporting the policy framework as set out in the NPPF.

### 5.3 [National Design Guide](#)

This is a document created by government which seeks to inspire higher standards of design quality in all new development.

### 5.4 [Design Supplementary Planning Document \(January 2020\)](#)

This document sets out the Borough Council's expectations in terms of securing high quality design in all new development. Schemes should respond well to local character, have positive impacts on the environment and be adaptable to meet future needs and provide spaces and buildings that help improve people's quality of life.

### 5.5 [Conservation of Habitat and Species Regulations 2010 \(as amended\)](#)

The Council as Local Planning Authority is obliged in considering whether to grant planning permission to have regard to the requirements of the Habitats Directive and Habitats Regulations in so far as they may be affected by the grant of permission. Where the prohibitions in the Regulations will be offended (for example where European Protected Species will be disturbed by the development) then the Council is obliged to consider the likelihood of a licence being subsequently issued by Natural England.

### 5.6 [Equality Act 2010](#)

Section 149 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality.

## 5.7 [The Draft Charnwood Local Plan 2019-37](#)

This document sets out the Council's strategic and detailed policies for the Borough over the period 2019-37. The local plan was submitted for examination in December 2021 with hearings concluding in February 2023. It is anticipated that the Inspectors will issue a letter setting out the requirement for main modifications to be made to make the plan sound. These modifications will be published for six weeks of public consultation so that the responses can assist the Inspectors in preparing their final report. The precise timings of these events are dictated by the Inspectors although, subject to their report, it is anticipated the Local Plan will be adopted by the Council in Autumn 2023.

In accordance with NPPF paragraph 48, the relevant emerging policies in the plan may be given weight in determining applications, according to:

- (a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater weight it may be given);
- (b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- (c) the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The following policies are considered applicable to this application, and the weight they can be assigned is addressed in the 'Planning Considerations' part of this report.

- Policy DS5: High Quality Design
- Policy E1: Meeting Employment Needs
- Policy E2: Protecting Existing Employment Sites
- Policy EV6: Conserving and Enhancing Biodiversity and Geodiversity

## 5.8 [Planning Guidance for Biodiversity June 2022](#)

This planning guidance seeks to provide further clarification to Core Strategy Policy CS13 insofar as ensuring development proposals secure biodiversity net gain on-site to contribute towards the overall sustainability of development proposals.

## **6. Relevant Planning History**

- 6.1 There is extensive planning history for the site addressing incremental changes to the buildings over time. However, none are considered to relate directly to this application.

## 7. Responses of Consultees & Other Comments Received

7.1 The table below sets out the responses that have been received from consultees with regard to the application:

Consultee	Response
Charnwood Borough Council Environmental Health (5/6/23)	<p><b>No objections</b> subject to conditions:</p> <ul style="list-style-type: none"> <li>• The floodlights facing residential dwellings to the rear of the subject site shall be shielded or angled in such a way so that the filaments are not visible to properties directly facing the site, in order to minimise excessive glare.</li> <li>• Where possible the floodlights facing domestic dwellings shall be fitted with a time-clock or similar device to prevent lights being inadvertently left on overnight or after an agreed curfew.</li> <li>• The floodlights shall be capable of providing variable lighting levels or timing so as to allow less light and an early cut off for lights directly facing residential properties than those required for site security.</li> </ul>
Charnwood Ecology (4/7/2023)	<p>The trees to the north of the site form part of a wooded corridor associated with a disused railway that runs through Shepshed and is connected to White Horse Wood, an ancient woodland. As such it represents good quality foraging and commuting habitat for bats and may include trees with roosting potential.</p> <p>Whilst there is no direct evidence of the proposed development upon wildlife there can be no expectation that such an impact would become apparent without specific surveys. Since this is a retrospective development and appropriate surveys cannot be carried out (IE to establish a predevelopment bat activity baseline) a precautionary approach is required.</p> <p>An appropriate standard against which to compare the existing lighting can be found in the ILP/ BCT best practice guidance (link below) which recommends that light spill onto sensitive habitats be kept below 1lux. The woodland corridor can, without question, be considered to be a sensitive habitat.</p> <p>The conditions suggested by the Environmental Health Team do not reference a specific standard and so may be insufficient to avoid adverse impact on wildlife.</p> <p>Therefore a lighting assessment to include a light spill diagram of the current scheme and recommendations to</p>

	reduce the spill onto the woodland corridor to below 1Lux is required.
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### Ward Councillor and Parish Council Response

Cllr C Radford	<ul style="list-style-type: none"> <li>The amount of flood lights proposed for this building.</li> <li>Residents have already raised concerns regarding the existing lights which are causing light pollution to their homes and to the wildlife on Jubilee Walk.</li> <li>Whether this application is retrospective or are these floodlights over and above those already in place.</li> </ul>
Shepshed Town Council	The bright lights would be detrimental to both wildlife along Jubilee Walk and the local residents on Belvoir Way.

### Responses to publicity

From	Comments
Five letters of objection received from three addresses, and two with addresses described as 'resident of Belvoir Way'.	<ul style="list-style-type: none"> <li>The floodlights have illuminated gardens and rooms within adjacent residential properties; 'light trespass'.</li> <li>Impact is exacerbated because landscaping has been diminished in recent times, reducing its screening capabilities.</li> <li>The floodlights were installed without prior consultation or notification.</li> <li>The light affects wildlife in the adjacent footpath area.</li> </ul>

## 8. Consideration of the Planning Issues

- 8.1 The starting point for decision making on all planning applications is that they must be made in accordance with the adopted Development Plan unless material considerations indicate otherwise. The most relevant policies for the determination of this application are listed above and are contained within the Development Plan for Charnwood which comprises the Core Strategy (2015), "saved" policies within the Borough of Charnwood Local Plan 1991-2026 (2004) which have not been superseded by the Core Strategy (2011-2028) and the Minerals and Waste Local Plan (2019).
- 8.2 The Core Strategy and Charnwood Local Plan are over 5 years old, and it is important to take account of changing circumstances affecting the area, or any relevant changes in national policy. Other than those policies which relate to the supply of housing, the relevant policies listed above are up to date and compliant with national guidance and as such that there is no reason for them to be given reduced weight.

8.3 The main planning considerations applicable to this application are considered to be:

- Principle of Development
- Impact on residential and visual amenity
- Ecology and biodiversity

## **9. Key Issues**

### **9.1 Principle of the Development**

9.1.1 The principle of development is guided by local plan policies CS6 and CS8 of the Charnwood Core Strategy (2015). These encourage the development and growth of businesses in general and in Shepshed specifically, respectively.

9.1.2 Policies E1 and E2 of the Emerging Local Plan address employment space and encourage flexibility to allow businesses to flourish and develop. The plan is at an advanced stage, it is considered there are no unresolved objections thus far. They are consistent with the NPPF and therefore is considered to carry moderate weight.

9.1.3 The development is considered acceptable in principle as it represents the adaption of employment space for the needs of the business in occupation. However, the impact of the development on its surrounding environment also requires consideration and this is addressed later in this report.

### **9.2 Ecology and Biodiversity**

9.2.1 Policy CS13 seeks to conserve and enhance the natural environment with regard to biodiversity and ecological habitats. The policy supports development that protects biodiversity and geodiversity and those that enhance, restore or re-create biodiversity. The loss of features of biodiversity and geodiversity will only be supported in exceptional circumstances where the benefit of the development clearly outweighs the impact. Where there are impacts, the policy requires mitigation or compensation of equal or greater value, likely to result in a net gain in biodiversity. The NPPF states that planning decisions should minimise impacts upon and provide net gains for biodiversity.

9.2.2 Emerging Local Plan Policy EV/6 similarly seeks to protect and enhance trees, wildlife and habitats. It also contains requirements to achieve 10% biodiversity net gain where biodiversity interests are affected and, although not relevant to this application, the weight the policy can be attributed is constrained as a result of this content. This is because whilst the Environment Act 2021 makes provision for 10% biodiversity net gain, the relevant sections of the Act have not yet been brought into force to make it a legal requirement and is not currently required by national policy. Therefore, emerging Local Plan policy EV6 can be given only limited weight until the emerging policy is further progressed towards adoption.

- 9.2.3 The development would not result in the loss of any trees, but representations submitted have raised concern that the illumination of the trees north of the site will affect its wildlife. The Council's Ecologist has advised that the woodland behind the site is a sensitive habitat and that wildlife is likely to have been disturbed. Adaption of the lights is proposed in order to prevent spillage into the area above 1 lux. It is considered that this can be secured by condition, including specification of a timetable for implementation.
- 9.2.4 Consequently, the proposal, subject to alteration as described above, would comply with policy CS13 of the Charnwood Local Plan 2006-2028 Core Strategy and emerging Local Plan policy EV/6.

### 9.3 Impact on Residential and Visual Amenity

- 9.3.1 Policies CS2 of the Core Strategy and EV/1 of the Local Plan seek to protect the amenity of existing and future residents.
- 9.3.2 Emerging Local Plan policy DS5 states that new development will be required to protect the amenity of people who live or work nearby and those who live in the new development.

#### *Existing properties*

- 9.3.3 The light fittings themselves are very small additions to the building which do not affect its appearance. The area is illuminated by other means and in itself the illumination is not considered out of keeping with its industrial surroundings. However, the site is at the edge of the industrial estate where it adjoins housing so illumination also needs to be considered in amenity terms.
- 9.3.4 Objections have been received concerning illumination of gardens and rooms within houses from the floodlights, with intervening planting not sufficient to effectively screen out this effect.
- 9.3.5 The Environmental Protection team has suggested a series of conditions in order to limit light spillage, glare and hours of illumination (see paragraph 7.1 above). These are achievable and can be applied to any permission granted.
- 9.3.6 The camera tower is some distance from the boundary of the properties and is not readily visible from them. Though utilitarian in its appearance, it is not considered unduly prominent or unsightly within its industrial surroundings and is obscured from view from the residential properties by the trees and the activities in the buildings forecourt.
- 9.3.7 The proposal would, therefore, be capable of complying with the provisions of policies CS2 of the Charnwood Core Strategy and saved policy EV/1 of the Local Plan, Policy DS5 of the emerging Charnwood Local Plan along with the NPPF, National Design Guidance and the guidance set out in the Design SPD to protect residential amenity.



9.3.8 Local concern has also been raised about the retrospective nature of this application. This is not a material planning consideration and therefore is not relevant to the determination of this application.

## **10. Conclusion**

10.1 The development is considered acceptable in principle and serves to enhance the property to meet the business's needs. This is in accordance with the aspirations of the Development Plan and emerging Local Plan policies to create and maintain employment land suitable to meet the needs of business.

10.2 However the impact in residential amenity is significant and has attracted objection. It is considered that the lights can be adjusted and controlled in such a way that their impact on residential dwellings can be maintained with acceptable levels of amenity and to safeguard ecological interests adjacent to the site, and conditions are proposed to achieve this.

## **11. Recommendation**

11.1 It is recommended that planning permission is granted subject to the following conditions:

### **Recommended conditions:**

1. Permission is hereby granted for the development as shown on the following plans and details:
  - Application form submitted to the Local Planning Authority on 19.7.2019
  - dwg no 006 Proposed roof plan submitted to the Local Planning Authority on 19.7.2019
  - dwg no. 005 - Proposed rear and right elevation submitted to the Local Planning Authority on 19.7.2019
  - dwg no. 004 - Proposed front and left elevation submitted to the Local Planning Authority on 19.7.2019
  - Floodlighting installation details submitted to the Local Planning Authority on 19.7.2019
  - Security camera specification submitted to the Local Planning Authority on 1.8.2019

REASON: To provide certainty and define the terms of the permission.

2. Notwithstanding the details hereby approved under condition 1 above, within two months of the date of this permission, a scheme for the adjustments of the lights hereby approved shall be submitted to the Local Planning Authority for approval in writing. The scheme shall include the following:
  - i. A means of angling or shielding the floodlights to the rear of the building such that the filaments are not visible to properties directly facing the site;
  - ii. Details of the hours during which the light will be in use, including individual lighting levels and timings for those lights directly facing residential properties;
  - iii. Means to prevent light spillage beyond the rear (north) boundary of the site exceeding 1 lux.
  - iv. Accordance with the Institution of Lighting Professionals / Bat Conservation Trust best practice guidance Guidance Note 08/18.
  - v. That the lights identified under (ii) above are fitted with a time clock to ensure accordance with the hours of use agreed under (ii) above.

The adjustments agreed under this condition shall thereafter be implemented in full within one month of their agreement in writing by the Local Planning Authority and shall be maintained as such in perpetuity.

REASON: To ensure protection of residential amenities and wildlife habitats, in accordance with Policy CS/2 and CS13 of the Charnwood Local plan Core Strategy 2015 and Policy DS5 and EV/6 of the emerging Charnwood Local plan 2021-37.

## **12. Informatives**

1. The decision has been reached taking into account paragraph 38 of the National Planning Policy Framework and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.
2. DEVELOPMENT PLAN POLICIES RELEVANT TO THIS DEVELOPMENT - Policies CS1, CS2, CS6, CS8, CS13 and CS25 of the Charnwood Local Plan 2011-2028 Core Strategy, EV/1 of the Borough of Charnwood Local Plan (adopted 12th January 2004) and emerging policies DS5, E1, E2 and EV6 of the Charnwood Local Plan have been taken into account in the determination of this application. The proposed development complies with the requirements of these saved and emerging development plan policies and there are no other material considerations which are of significant weight in reaching a decision on this application.
3. Planning permission has been granted for this development because the Council has determined that, although representations have been received against the proposal, it is generally in accordance with the terms of the above-mentioned policy/ies and, otherwise, no harm would arise such as to warrant the refusal of planning permission.
4. The applicant is advised that the details submitted for the purposes of condition 2 (ii) should make provision for the illuminance of the lights to be in accordance with the provisions of the Institution of Lighting Professionals Guidance Notes for the reduction of Obtrusive Light 2021.

**APPLICATION SITE**

