

Item No. 4

Enforcement Report for Delegated Authority to take formal enforcement action.

Enforcement Case Reference No: E/18/0050

Developer: Mrs Claire Watts

Breach: Unauthorised development - Erection of Summerhouse together with associated fencing and installation of gate.

Location: Land At Syston Road, Cossington, Leicestershire, LE7 4UZ

Parish: Cossington **Ward:** Wreake Villages

Case Officer: Neema Somani **Tel No:** 01509 634773

This application is before the Plans Committee at the request of Councillor Poland in accordance with the provisions of the Constitution. Councillor Poland asks Plans Committee to consider whether enforcement action should be taken against the unauthorised development.

Description of the Unauthorised Development

The land in question is located on land in an area of open Countryside by Cossington Lakes off Syston Road.

A summerhouse has been erected on the land together with the installation of associated fencing and high metal gates. The summerhouse was erected in 2017. The summerhouse is currently being used for the storage of items belonging to a person who is residing with the owner. As well as storage within the summerhouse the land is also being used to store two vehicles. The development of the land including the erection of a summerhouse and associated fencing, landscaping and large metal gates is unauthorised.

Landscaping works have been carried out and the land has been cleared of foliage and vegetation. Large metal gates have been erected at the access to the land and security fencing has been erected at a height of approximately 2.43 metres and 4.3 metres in length spanning the frontage. The erection of the summerhouse on the land creates a residential appearance to the land and together with the inappropriate security fencing is considered an incongruous feature in the landscape, out of character with the rural and natural landscape of the open countryside in this location.

Councillor Poland has inspected the site and spoken to the developer. Councillor Poland considered enforcement action is inappropriate as he does not consider the harm warrants the removal of the summerhouse and fencing; however, he is aware that if no action is taken this could set a precedent and therefore requested that the item be taken to Plans Committee.

Development Plan Policies

Charnwood Local Plan 2011 – 2028 Core Strategy (adopted 9th November 2015)

Policy CS2 – High Quality Design requires developments to make a positive contribution to Charnwood by respecting and enhancing the character of the area, having regard to scale, density, massing, height, landscape, layout, materials and access arrangements.

Policy CS11 - Support the protection of the landscape and countryside by requiring new developments to protect landscape character and to reinforce a sense of place and local distinctiveness by taking account of relevant local Landscape Character Assessments. Support the protection of the character of the landscape requiring new development to take into account and mitigate its impact on tranquillity.

Borough of Charnwood Local Plan (adopted 12th 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 the unauthorised development that has taken place the relevant policies are:

Policy ST/2: The Limits to Development, identified on the Proposals Map provide clear boundaries to the various settlements and other areas of development in the Borough. They distinguish between areas of development and development potential and areas of restraint. They allow for any new development to be sensibly related to the existing pattern of settlement to ensure that development needs can be met without unwarranted harm to the countryside and other rural interests.

Policy CT/1: Development within areas of generally open land will be strictly controlled. Planning Permission will be granted for the re-use and adaptation of rural buildings for uses suitable in scale and nature and small-scale new built development, where there would not be a significant adverse environmental impact and the proposal would:-

- i) Be essential for the efficient long-term operation of agriculture, horticulture or forestry; or
- ii) Facilitate the diversification of the rural economy;
- iii) Improve facilities for recreation, or leisure uses; or
- iv) Implement strategically important schemes for mineral related uses, transport infrastructure, and for public services or utilities.

In all cases it should be demonstrated that the proposed development could not reasonably be located within or adjacent to an existing settlement.

Policy CT/2 relates to development in principle will be permitted where it would not harm the character and appearance of the countryside and provided it could safeguard its historic, nature conservation, amenity and other local interest.

Policy EV/1: Design - The Borough Council will seek to ensure a high standard of design in all new developments. Planning permission will be granted for new development which:

i) respects and enhances the local environment including the scale, location, character, form and function of existing settlements and the open and undeveloped nature of the countryside;

Material Considerations

National Planning Policy Framework (NPPF)

Whilst all proposals must be determined in accordance with the development plan, the National Planning Policy Framework, (The Framework), is a material consideration in planning decisions. The Framework contains a presumption in favour of sustainable development and defines 3 roles a development must fulfil in order to be sustainable:-

- An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places to support growth and innovation.
- A social role – supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built development with accessible local services.
- An environmental role – contributing to protecting and enhancing the natural, built and historic environment.

In addition the Framework offers the following advice that is particularly relevant to the consideration of this unauthorised development:

- Paragraph 58 states enforcement is important to maintain public confidence in the planning system. Enforcement is discretionary, and local planning authorities should act proportionality in responding to suspected breaches of planning control and take action where appropriate.
- Paragraph 118 (b) states that planning policies and decisions should recognise that some undeveloped land can perform many functions such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production.
- Paragraph 170 (inter alia) states in part that Planning Policies and decisions should contribute to and enhance the natural and local environment by:
 - a) Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils;
 - b) Recognise the intrinsic character and beauty of the countryside; and the wide benefits from natural capital and ecosystems services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;....

Draft Charnwood Local Plan 2019-2036

The Draft Local Plan sets out the Council's preferred options for draft policies which are yet to be tested through an Examination in Public before they can become part of the development plan for Charnwood. The policies therefore carry limited weight

at the current time. These include policies which would seek to between 2019 and 2036

The Crime and Disorder Act 1998

This Act 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 community safety is therefore a material consideration in the authorisation of enforcement proceedings.

The issue of **human rights** is also a material consideration in the determination of planning applications and enforcement issues. Article 8 of the Human Rights Act 1998 requires respect for private and family life and the home while Article 1 of the First Protocol provides an entitlement to peaceful enjoyment of possessions. However, these rights are “qualified” and it is necessary to consider whether refusing planning permission and/or issuing an enforcement notice would interfere with the developer’s human rights. If it would, the Committee must decide whether any interference is in accordance with the law, has a legitimate aim and is proportionate.

The impact on the human rights of the developer must be balanced against the public interest in terms of protecting the environment and the rights of other people living in the area. In this case, the balance points to the rights of the local community and the protection of rural open countryside.

Relevant Planning History

There is no relevant planning history for this site. A Planning application has not been submitted for the development carried out on the site.

Responses of Statutory Consultees

None

Other Comments Received

None

Consideration of the Planning Issues

The key issues in assessing this unauthorised development are considered to be:

- Principle of development in the countryside
- Design, Scale and Impact on the Character of the Area and Open Countryside

Principle of Development in the countryside

As stated in the Core Strategy the Borough’s countryside is largely the product of interaction between the underlying geology and centuries of farming which have shaped the pattern of fields, lanes, farmsteads, hedgerows and woodlands. Extensive water features have been added with the creation of reservoirs in the upland areas during the 19th Century, and more latterly through reclaimed sand and gravel workings in the broad

river valleys. As a result Charnwood enjoys the benefit of substantial areas of attractive countryside which is worthy of protection for its own sake. The strategy aims to reconcile the protection of the countryside with the needs for new development and increasing leisure demands. The erection of the summerhouse and fencing in this location is considered contrary to the aims of the policies ST2 and CT/1, CT/2 and EV/1 of the Charnwood Borough Local Plan (Adopted 2004) Policies CS2 and CS11 of the Charnwood Local Plan Core Adopted 2015. Whilst Paragraph 118 (b) of the NPPF states that planning policies and decisions should recognise that some undeveloped land can perform many functions such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production development should take into account the setting character and appearance of the land. In this case whilst the use is claimed to be recreational this does not outweigh the harm caused by the development in the countryside which is considered inappropriate.

Design, Scale and Impact on the Character of the Area and Open Countryside

The starting point for decision making on all planning applications and planning enforcement issues is that they must be made in accordance with the development plan unless material considerations indicate otherwise. Policies in the adopted Core Strategy and the saved policies in the Borough of Charnwood Local Plan are therefore the starting point for consideration. Policies in the local plan relate to achieving high quality design for all proposals and to protect the countryside for its own intrinsic value.

The addition of a summerhouse together with associated fencing and large metal access gates are not in keeping with the rural character of the area. The owner of the site claims her grandfather previously had a building on the site which he used as a workshop for many years. The building was unused for many years and fell into disrepair. The building was set on fire and the owner claims the building was still standing until the summerhouse was erected. The re-using or adaptation of rural buildings would in principle be acceptable subject to considerations regarding appropriate use and visual aspects and character of uses, however since the original building was removed, any new build development on the land would require planning permission.

The Charnwood Local Plan and Core Strategy require new development not to harm the character and appearance of the countryside. It is considered the use of the land for the siting of the summerhouse encourages a change in the appearance of the land to a garden/residential like character including the siting of domestic paraphernalia around the land.

The owner of the site has stated the summerhouse was for a leisure/recreational use solely for her children and herself however when this development was brought to the attention of the planning authority it was confirmed following a site visit that vehicles were parked on the land and one of the vehicles was occupied by a friend of the owner of the land who was homeless at the time. This person was storing his belongings in the vehicles and in the summerhouse and was also sleeping in one of the vehicles. The developer claimed the friend was staying there for security purposes in order to protect the land from vandalism. The friend is no longer occupying the land but is still storing possessions in the summerhouse.

The summerhouse and access are visible from the main highway and it is considered their presence and appearance is out of keeping and harmful to the character and appearance of the countryside and the visual amenity of the area contrary to the aims of Policies.

The area was originally heavily landscaped with trees and this has now been removed to create a clearing for the siting of the summerhouse on the banks of the lake. As a result of the clearance of the land and imposition of the summerhouse and fencing the openness and character of the countryside is considered to have been detrimentally affected contrary to the intentions of policies ST/2 and CT/1, CT2 and EV1 of the Charnwood Local Plan and Policies CS/2 and CS11 of the Core Strategy respectively and the advice contained within the National Planning Policy Framework.

Paragraph 58 of the National Planning Policy Framework states enforcement is important to maintain public confidence in the planning system. Enforcement is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control and take action where appropriate. In this case, it is considered appropriate to take formal action in relation to the breach of planning control for the reasons stated above.

Conclusion

This development and use of land is unauthorised and requires planning permission. The owner has been advised and has been requested to remove the development and cease the occupation of the land. Following intervention by Cllr Poland, the matter has been brought to Plans Committee for a decision to be made.

The summerhouse, associated fencing and metal gates are new structures and are considered to be out of character with the natural environment and to have a detrimental impact on the surrounding area and the development is contrary to Policies ST2 and CT/1, CT/2 and EV/1 of the Charnwood Borough Local Plan (Adopted 2004) Policies CS2 and CS11 of the Charnwood Local Plan Core Adopted 2015.

In conclusion it is considered that the development has a detrimental impact on the visual amenity and character of the area and countryside. The metal gates that front the highway are incongruous and visually intrusive and are considered to be out character with the area and detrimental to the appearance of this countryside location. It is therefore considered that had a planning application been submitted for the development and use of the land for the unauthorised purposes prior to it taking place it would have been unlikely to have secured planning permission for the reasons set out above.

Recommendation

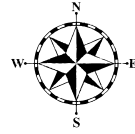
It is recommended formal enforcement action be authorised and an enforcement notice served to secure the removal of the development within a period of six months.



This material has been reproduced from Ordnance Survey digital map data with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright.

Licence No: 100023558

This copy has been produced specifically for Council purposes only. No further copies may be made.



Reference No: E/18/0050

Location: Land at Syston Road Cossington

