



MEETING OF THE
PLANNING COMMITTEE

Civic Suite, Parkside

29 January 2015

PRESENT:

PM Chandler (Chair), P Baguley,
G Botterill, G Bush, P Cumbers, A Freer-Jones, E Holmes,
J Illingworth, MR Sheldon

AS SUBSTITUTE

Cllr J Douglas for Cllr J Simpson (Vice Chair)

AS OBSERVERS

Cllr Rhodes
Cllr Posnett

Solicitor to the Council (HG), Regulatory Services Manager (PR), Applications and
Advice Manager (JW), Administrative Assistant (AS)

D72. APOLOGIES FOR ABSENCE

None

The Chair opened the meeting by introducing the Planning Committee Members and the Planning Team to the general public.

D73. DECLARATIONS OF INTEREST

Cllr Baguley declared an interest in application 14/00860/FUL

D74. MINUTES

Minutes of the meeting 18 December 2014

Cllr Holmes proposed deferral of agreeing the minutes as all Councillors hadn't had enough time to review them. Cllr Cumbers seconded the proposal.

The Chair confirmed that the delay with the minutes had been due to a legal issue rather than an administration one.

A vote was taken and 10 members voted in agreement that the minutes should be deferred until the next meeting. 1 member didn't vote due to the fact that they weren't in attendance at the meeting of 18 December 2014.

D75. SCHEDULE OF APPLICATIONS

- (1) **Reference:** **14/00468/OUT**
 Applicant: **S and P Industrial**
 Location: **Land at Orston Lane, Bottesford**
 Proposal: **Proposed industrial development**

- (a) The Advice and Applications Manager stated that: This application seeks outline permission for 19 units of B1 industrial. The application is in outline with all matters reserved. Therefore the consideration of the committee is the principle of the development. An indicative layout has been submitted showing utilization of the existing access, however, the access would need to be considered at the detailed stage.

There are no updates to report.

The consideration of this application is the principle of the extension of an existing industrial development on the edge of Bottesford in the open countryside. The development is not considered to be small scale and is not be compatible with Policy OS2. The NPPF is supportive of economic development. As an extension to an existing industrial park it is considered that it is not isolated and is well related to a sustainable settlement. It is not considered that the proposal would be harmful to the countryside due to its proximity to the existing industrial units. The application is recommended for approval as set out in the report.

- (b) Mr Wicks, agent for the applicant, was invited to speak and stated that: the proposal is a local venture and the applicants live and operate in Bottesford. The applicants have previously developed the existing employment units that are already on the site. This scheme expands that development to create further employment opportunities at a local level. The scheme is a mix of small start-up units and larger units for expanding companies or for larger companies who are relocating . There is easy access to the A52 and on to the A1 and motorways without disturbing either the village centre or nearby housing. The closest of which is 180 metres away from the site. The proposal will provide footpath links and rather that have a section 106 agreement this can be secured by condition. We have also agreed a footpath route to the football club.

Highways have confirmed that no traffic hazards are created and that there are no capacity issues on the local road network. They fully support the proposal. The Parish Council supports the application. Leicester County Council Ecology, the Environment Agency and Severn Trent have no objections subject to standard conditions. Trial trenching have confirmed that no further archaeological work is required. The character of Bottesford is retained and as a service centre it is essential that it should benefit from economic job creation development, which will help provide young people with employment opportunities within their own village. The 5 hectares of industrial land is expected to be increased with high levels of growth predicted in the future. The NPPF gives significant weight to encourage economic development especially when it expands an existing park and is not a stand-alone site. There are significant benefits over any potential limited harm. It would keep the revenue local within Bottesford.

The Chair had been requested to read out a statement on behalf of Cllr Wright (Ward Member) as follows:

“The application site is adjacent to the existing industrial estate on the western edge of the village and will extend the very successful existing site into open countryside, thus causing little or no disturbance to the nearest properties or residents.

The extension to the existing site will enhance much needed employment opportunities to residents of the Parish and to those who will be taking up residence in the near future with the continued housing development in the village, Parish and Borough.

The design and layout of this application is similar in design and layout to the existing site therefore I find both design and location acceptable.

With reference to the traffic that will be visiting this site, as the location of the proposed site is on the outer edge of the village the natural vehicle approach and exit would be via the west A52 /Bottesford junction keeping traffic to the site out of the village, this to be encouraged.

Having read the report and accompanying notes I fully support this application and recommend its approval.”

The Advice and Applications Manager noted that condition 6 on page 9 is requiring construction of the footway as referred to by the agent. She also pointed out the weight limit restriction on the bridge, so vehicles over 7 tonnes would not be able to pass through Bottesford.

Cllr Holmes proposed approval as she agreed with the agents comments and commented that Bottesford is a large village and it needs expansion for the community and amenities that are already there.

Cllr Baguley seconded the proposal and added that she wouldn't like the proposed buildings to be any higher than they already are.

The Chair commented that the height of buildings would be part of the details stage.

Cllr Cumbers commented that it is a good proposal especially with prospective job opportunities and that setting up businesses should be encouraged. Cllr Cumbers requested clarification on the number of proposed footpaths.

The Chair clarified that there had been a pre-application discussion regarding a footpath going through the new site, subject to its approval, to the football club. However it won't be hard standing, it will be better than a mud path but not to highways specification. Highways are speaking to their legal team to decide whether it is going to be a permissive path or restricted. It will be for the County Council to decide. In principal they are happy with it.

Cllr Cumbers asked if it should be a condition.

The Chair responded that it could be a proposal. The Norris family are working closely with the football club as they have been great benefactors of the sports clubs in Bottesford over the years.

The Advice and Applications Manager commented that the footpath condition relates to a highway point of view with an access. The footpath is indicative of the layout. Conditions could be put on at a later stage if required.

Cllr Sheldon enquired who would be responsible for the maintenance of the footpath as footpaths degrade over time.

The Chair responded that the footpath on the road side would be adopted, which is the main and most important footpath. The secondary footpath is to keep youngsters off the old Nottingham Road.

Cllr Sheldon expressed further concerns regarding the degradation of the footpath and the responsibility of its maintenance.

The Chair responded that it is not a consideration for this stage of the planning process. The Chair noted that the proposed bridge over the Winterbeck comes under the jurisdiction of the Trent Valley River Board.

Cllr Botterill commented that he was in support of the application and felt that it was important to invest and create jobs for the future.

The Chair commented that as Ward Councillor she was also in support of the application.

A vote was taken and the members votes unanimously to permit the application.

DETERMINATION:

Approved, subject to the conditions in the report.

(2) **Reference:** 13/00918/VAC
Applicant: Ian Wheaton – Network Rail
Location: Old Dalby Test Track, Station Road, Old Dalby
Proposal: Variation of Condition 1 – Planning Permission 08/00609/FUL – Upgrading and electrification of railway test track and related works and increase in passes. No more than the following train movement shall pass any specific point along the test track within any one hour period.

Monday to Friday:

7am – 8am & 6pm – 7pm No more than 6 passes per hour (no increase)

8am – 6pm No more than 18 passes per hour (increase in 6 per hour)

Saturday:

8am – 9am & 5pm – 6pm No more than 4 passes per hour (no increase)

9am – 5pm No more than 8 passes per hour (no increase)

a) The Regulatory Services Manager stated that:

There are no updates to the report, but that a line in condition 2 (“one of these.....14 passes per hour” page 8 of the report) should be deleted.

The application relates to an increase in 6 passes per hour during weekday working hours . The track would be used by a range of trains .. The key issue is residential amenity and the impact of noise . Note that there would be a benefit ,that a maximum acceptable noise level would now be controlled by a new condition. Impact upon Station House would be mitigated by a noise barrier. Environmental Health have raised no objection ,subject to conditions . It is recommended that permission is granted.

The Chair asked if they were already carrying out the proposed additional hours anyway.

The Regulatory Services Manager commented that he was not sure if they had been carrying out testing during the proposed additional hours but could confirm that some testing had been carried out but this was with regards to an old application. This application would give the applicants flexibility in the future subject to the noise conditions imposed.

b) Cllr Orson, Ward Councillor for Old Dalby, was invited to speak and stated that: he wished to relay the concerns of the local residents and that he has lived close to the line himself. The line also runs into Nottingham so this should also be a

consideration. The main fears are the noise and they have also noted the increase in frequency of the trains recently. The current trains are of the London underground mode and there is virtually no noise from them. However they are proposing the Javelin Express train which is significantly different. They feel that this will have an impact and their enjoyment of their outside space would be impaired especially on Saturdays. We welcome the noise testing, should it be approved, but we have concerns regarding how often the testing will take place and where it will take place. We also have concerns that the condition regarding noise testing will not take place at all.

The Regulatory Services Manager commented that the track does go into Nottinghamshire and this is a separate application for Rushcliffe to consider. In terms of noise, there is no change to Saturdays. This application only relates to Monday to Friday. There is a condition regarding noise on all days. Presently noise is measured at the face of buildings using standard methodology as employed by environmental health. They would not be doing it on a regular basis however, should it be brought to our attention that trains were noisy, then it would be assessed and enforcement action would be taken if necessary.

Cllr Orson requested to continue speaking for the remainder of his 3 minute slot.

The Chair advised Members that this would require them to suspend standing orders.

Cllr Sheldon proposed to suspend standing orders and Cllr Holmes seconded the proposal. A vote was taken and the Members voted unanimously.

Cllr Orson was invited to speak for the remainder of his 3 minutes and stated that: should the application be permitted, he would like to see a condition in place where at least 3 separate noise readings are taken during the first 6 months of operation, maybe at objectors homes.

The Regulatory Services Manager responded that if Members did wish to impose the suggested condition that it would be a reasonable condition should permission be granted.

The Chair commented that this type of application had been brought before the Committee on numerous occasions and when they have permitted it, the applicant always comes back and wants variations. She added that views of local residents should be respected but equally we need improved trains.

Cllr Holmes noted that LCC had raised concerns over footpath safety and asked if this was because the public are unaware of train passing times.

Cllr Orson responded that he couldn't comment on the Nottingham part of the line but knew of all the crossing points in the Leicestershire part and believed that LCC Officers were happy with it.

Cllr Holmes noted that the report stated there were concerns over safety.

Cllr Botterill asked if any decibel readings were available and if the new trains would be noisy or similar to what already passes through. He felt it was a good business to have in the Borough but that they must consider the residents.

Cllr Orson responded that it would be a Javelin 125 and that it is significantly different to the current tube trains. He commented that it wouldn't just be the noise of a train going up and down a line and that it would be the type of noise a train makes when it goes into a tunnel. Although the residents were used to the current testing they had not experienced this before.

The Regulatory Services Manager commented that Members had mentioned that the frequency of testing has been increasing over time and that they are concerned about this. However he had been advised by Environmental Health and the Operators that if this application was permitted the line would be operating at maximum capacity so there would be no opportunity for movement to increase again. He commented that they had investigated restricting the type of train to be tested but that it was more reasonable to have a condition on the noise levels. Any train would have to adhere to that level and this would be more enforceable. He referred Members to Page 6 of the report regarding the LCC footpaths and right of way officer having no objections in light of the information provided.

The Chair commented that there are more footpaths crossing over railway lines than people realise and that the LCC officer had no objections.

Cllr Holmes and Cllr Sheldon shared concerns regarding safety of the footpaths and asked if there are warning signs or a bell. Cllr Holmes commented that you don't hear trains coming.

The Regulatory Services Manager advised that as with any footpath crossing a railway line there is a risk but people have to be aware when crossing a line.

Cllr Illingworth commented that this application, if permitted, would take the track to capacity and asked if it could be conditioned so they couldn't apply again. He felt he would like to see such a condition in place.

The Regulatory Services Manager stated that such a condition couldn't be imposed. We can express our views but we can't stop further applications coming forward. The applicants have advised us that if this application is permitted they can't use the track at any further capacity due to the number of trains and turning points on the track.

The Chair commented that she recalled a similar conversation taking place in 2008 and that it is a variation of condition.

Cllr Illingworth expressed that they should all be mindful of any future applications of this nature.

Cllr Holmes commented that she still had concerns regarding the footpaths and that the report states that there will be no more passes, however with the retrospective

application there are more now than there were before.

Cllr Cumbers commented that she had taken it to mean, no more than is proposed.

Cllr Illingworth added that footpath G62 crossed the line and at this point there would be no further affects by movements.

The Chair asked for clarification of the location of G62.

The Advice and Applications Manager showed G62 on the map.

The Regulatory Services Manager advised that the additional information that was provided to the highways officer was that footpath G62 would not be affected by the additional movements.

Cllr Sheldon commented that he thought that the Parish Council had asked for a diversion because of the live line passing through footpath G62 and thought it went back up to G34 which goes over a foot bridge.

Cllr Orson commented that he was not aware of this.

Cllr Sheldon raised concerns regarding noise levels and commented that other trains have been quiet but that the Javelin is noisy even when stationary.

Cllr Bush asked if there was an end date for the Javelin testing project as it had already been taking place for some time. He also raised concerns regarding the footpath going over a live line and felt it was inappropriate for the public to be walking over it. He felt there should be a diversion and asked if it could be checked if one was already in place.

The Regulatory Services Manager confirmed that the operator had started working on testing the Javelin last year but had no details for when it would be completed. He added that there is the noise condition which can ensure that noise is mitigated and is reasonable for those living near to it. He also confirmed that the live line already exists but should not affect any decisions as it is not for Members consideration at this meeting, it is just the number of movements they need to decide on.

The Chair commented that she was disappointed that there was no representative to speak on behalf of the applicant.

Cllr Freer-Jones asked about Condition 5 with regard to the mitigation of the noise levels should it be approved. It states that the mitigation to the noise levels will be undertaken within a month of approval. As this has already been taking place without permission is it possible to condition it so they are not allowed any movements until noise levels have been checked rather than waiting a month.

The Regulatory Services Manager explained the reason they have asked for a month is to ensure they have time to consider the details with technical experts and allow them time to get contractors in place. Once the mitigation details come in

which may be acoustic barriers or walls they need a reasonable period to construct such a barrier. The tests of a condition are that it has to be reasonable. Officers felt a one month period was a reasonable amount of time for the designs to come in and be approved and put construction in place on a train line.

Cllr Freer-Jones felt there should be no movement at all or no increase in movements until the mitigation was in place.

The Chair asked if she could suspend standing orders for Cllr Orson to speak again as she required him to clarify.

Cllr Sheldon proposed to suspend standing orders and **Cllr Freer-Jones seconded** the proposal. A vote was taken and the Members voted unanimously to allow Cllr Orson to speak.

Cllr Orson confirmed that the Javelin train has hardly been in Old Dalby but that he has seen it parked up in Old Dalby station for 2 days. He understood that it had been on the line but at nowhere near 125mph and he didn't want Members to think it had been bombing up and down the line. He agreed with Cllr Holmes comment that you never hear a train coming until it is upon you.

Cllr Douglas commented that she wasn't sure if the Javelin was one of the high speed trains that are coming into vogue along with the upgrading of the national rail network across the country. She added that if more high speed engines were going to be passing rather than the slower engines that we've been used to, should the application was permitted, testing noise levels should take place more often so it doesn't get out of control.

The Chair commented that high speed trains were already in operation on the East Coast mainline.

Cllr Cumbers asked if there was a protected species on the test track, as although the report said there wasn't, she could recall something about a Detford Pink.

Cllr Sheldon confirmed that there had been a 2 year delay with test track at the Rushcliffe end of old Dalby and that it had been confirmed that there was a protected species on the track but the location of the species had not been disclosed.

The Regulatory Services Manager commented that Ecology and Natural England had no objections and that the Members only needed to consider the increase in movements.

Cllr Sheldon proposed to permit the application and **Cllr Cumbers seconded** the proposal. A vote was taken and the Members voted unanimously to permit.

Cllr Illingworth expressed the concern that they hadn't conditioned the testing.

Cllr Cumbers commented that environmental health would be on top of it should they receive any complaints.

DETERMINATION: Approved ,subject to the conditions in the report

- (3) **Reference: 14/00776/FUL & 14/00872/LBC**
Applicant: Anthony Sheward - Marstons
Location: Nags Head Inn, 20 Main Street, Harby
Proposal: Retrospective application for larger extraction fan

The Chair verified that the Members were happy to hear both the FUL and LBC applications together but vote on them separately due to them being separate applications.

- a) The Advice and Applications Manager stated that: This application seeks FUL and LBC consent for retrospective permission for a larger extraction fan. The site lies within the village envelope and Conservation Area for Harby on a Grade II* Listed Building.

Since publication of the report comments have been received concerning noise and odour levels from the extractor fan. It is considered absolutely fundamental in the assessment of the application that the councillors have a full opportunity to experience the fan in operation and therefore understand the negative impact this fan has had on the adjoining property.

In response to this, additional information on the extractor unit has been requested of the applicant in terms of details of the model, the acoustic specifications and odour information. This information has not been submitted and therefore it has not been demonstrated that the levels of noise or odour is acceptable in terms of residential amenity. Even if members were to have experienced the noise and odour from the extractor fan there would still be insufficient information submitted to determine whether the fan would or wouldn't have an adverse impact on residential amenities and on this basis is recommended for refusal.

The extractor fan is to be sited on the side gable of a grade II* Listed Building. The fan, due to its location, appearance, size and materials is considered to be unsympathetic and harmful to the character and appearance of the Listed Building.

Therefore, the application is recommended for refusal as set out in the report.

- b) Alistair Hall, on behalf of the objectors was invited to speak and stated that: he and his family are direct neighbours to the Nags Head Pub. He expressed his

thanks to the Planning team for their communication and support over the last 6 months and explained that he had a meeting with Marstons in September but they have ceased all communications with him over 3 months ago. Since the fan was installed in July last year, we still don't know why it was installed as there was a perfectly functioning one there previously. We have had to endure significant disruption to our family life due to dreadful odours and perpetual noise 7 days a week created by the ugly fan that Marstons have installed on this lovely 500 year old Grade II listed Pub, which stands less than 15 feet away from our property. It has eliminated our ability to enjoy time in our garden with our two young children. It is almost impossible to work in our home study which is adjacent to the Pub and forced us to have all windows and doors closed, which is dreadful in the heat of the summer. It is an eyesore and the head height of it poses a danger to the public, perhaps, even more so at night. We have submitted objections to the Council in detail however we would like to pull out a few key points as follows: the pub used to only serve food on 2 evening per week but there is an increased food service both at lunch times and in the evening. The fan appeared without notice and having spoken to Marstons regarding this we became aware that no planning permission had been sought. They have ceased communications with us. The fan is out of character with the building.

Cllr Sheldon asked if they served food 7 days a week.

Mr Hall responded that the Pub is only closed on a Monday morning hence why the Members did not see or hear the fan working during their site visit on the 26th January.

Cllr Holmes commented that there must have been an extractor fan before.

Mr Hall demonstrated on the elevation plans that there was an error, as there was actually a fan on right hand side not a window as indicated. The fan that used to be in place was flush to building whereas this one now sticks out by 60cms.

Cllr Illingworth asked if there had been noise before from the previous fan.

Mr Hall responded that they've had barely been any noise but now that the fan is larger and the usage has increased it's unbearable.

- c) Cllr Rhodes, Ward Councillor for Long Clawson and Stathern, was invited to speak and stated that: I agree with all the points Mr Hall has made and what he said was absolutely accurate. Marstons haven't behaved well and they installed the fan without application or approval. It's a grade II listed building and should have not been installed. Measures should be taken regarding their conduct as it has been unacceptable. The fan protruding out on an end gable is totally unacceptable.

The Chair reminded Members that Marstons conduct was not a planning consideration.

The Advice and Applications Manager referred to page 4 of the report and advised that Officers had asked for, in terms of noise, the manufacturing model of the external extraction, the acoustic specification i.e. the sound power data and the proposed hours of operation. With regards to odour they had asked for the approx. number of covers in a typical day, the type of food being served and the grease odour filtration systems installed. This information hasn't been provided so there isn't sufficient information to make a judgement on the extractor fan and that is why it has formulated a ground for refusal, as we need that information.

Cllr Baguely, Ward Councillor for Long Clawson and Stathern, proposed refusal due to it being a grade II listed building and the position of the fan.

Cllr Cumbers seconded the proposal. She added that she felt disappointed in Marstons and that the Pub is beautiful and an asset to the Borough. She agreed that there is not enough information.

The Chair shared concerns regarding the smell.

Cllr Holmes asked if there could be a note to the landlords of the pub to remind them they should consider their neighbours before making decisions.

The Advice and Applications Manager informed Members that should the application be refused this would mean the pub doesn't have planning consent for the fan and this would become an issue for enforcement to take up.

The Chair commented this would generate another application should they want to continue trading.

Cllr Botterill commented that there should be a note to the applicant regarding putting a fan at street level as the smells and noise are being emitted all around it. It would be better placed on the roof.

Two separate votes were taken to refuse application 14/00776/FUL and application 14/00872/LBC. The Members voted unanimously to refuse on both applications.

DETERMINATION:

14/00/776/FUL Refused for the reasons in the report

14/00872/LBC Refused for the reasons in the report

- (4) **Reference:** 14/00912/LBC
Applicant: Anthony Sheward - Marstons
Location: Nags Head Inn, 20 Main Street, Harby
Proposal: Construction of a chimney to surround an existing extractor fan

- a) The Advice and Applications Manager stated that: This application seeks LBC consent for a chimney to surround an existing extractor fan on the same site.

There are no updates to report.

As with the previous application it is considered that the siting of a chimney on the side gable of a grade II* Listed Building would due to its siting, appearance, design and size is considered to be harmful to the character and appearance of the Listed Building.

There is a FUL application in process which will come to Committee in the future but Members are just being asked to consider the impact of the LBC on this occasion.

The Chair asked if the applicant had considered lining the existing chimney as she was aware of one there.

The Advice and Applications Manager advised that she hadn't been given that information.

- a) Alistair Hall, on behalf of the objectors was invited to speak and stated that: the landlords of the pub have been supportive and have tried to keep the fan down and at a minimum when it's not being used. The signature dish is burgers, chips and onion rings so you can imagine the smells. Most weekends they have 90 covers and have quadrupled the turnover. Our major concerns are regarding the height, safety, visual impact of the height, the materials that the chimney may be built of. The plans suggest the chimney will be smaller than the existing fan which makes nonsense of it. It will affect the view from our house and will have an impact on our house. We value country living. It is unattractive and we have no knowledge regarding the size and materials or how in keeping it would be, as well as the impact it may have on the noise and smell. There is already a chimney there and they should duct through the internal chimney system to take the noise and smell vertically away and then nobody would see it.

Cllr Botterill asked if the present chimney is in through a fireplace.

Mr Hall responded that it is within the kitchen area and is currently unused.

Cllr Botterill asked if it was possible to use it.

Mr Hall responded that he wasn't technically able to answer but that there was a chimney breast as depicted on the photographs.

The Chair commented that it should be possible.

- b) Cllr Rhodes, Ward Councillor for Long Clawson and Stathern, was invited to speak and stated that: that the FUL and LBC applications should have been brought in pairs irrespective of time frames, as this is incomplete and not possible to determine. It is not clear from the application what materials would be used and how it would be constructed. It is in the interests of the village, that if chimney was constructed it is in keeping with the building and area. There needs to be a proper dialogue with Marstons regarding the existing chimneys. It would be a detriment to the village if the Pub were to stop trading.

The Advice and Applications Manager addressed Mr Hall's concern regarding the chimney protruding out onto the access to the back of the pub where the car park is and the highway safety. This will be a consideration of the planning application and isn't an issue to be looked at as part of the LBC application. It is not part of the reason for the refusal as they are just looking at the impact on a grade II listed building on this occasion. With regards to Cllr Rhodes comments concerning dialogue with the brewery, if the application is refused as per the recommendation, then this would become an enforcement issue and this would open up a dialogue with Enforcement Officers and the brewery or the Pub itself. Or the other option is they could go down the appeal route.

Cllr Baguely proposed to refuse the proposal and commented that she was surprised at the brewery as they have spent a lot of money on the pub.

Cllr Cumbers seconded the proposal and felt it was a shame it had got to this situation.

Cllr Holmes commented that she agreed that we need to keep village pubs open but she would have liked to ask Ward Councillor Rhodes if he had approached the brewery, as this can be a way round it.

The Chair responded that the planning department had been getting no response from the brewery.

Cllr Illingworth raised concerns as he felt the FUL and LBC applications should be dealt with together. He suggested that perhaps the LBC application should be deferred until FUL application comes to committee. He felt that the Members could be seen to be predetermining their decision.

The Chair asked the Solicitor for the Council for a legal opinion and he stated that he was unaware of the FUL application.

The Advice and Applications Manager advised that each application should be considered on its own merits and that they could approve one application and refuse

the other but that the applicant couldn't implement one without the other. The planning department can't hold back applications because one is more advanced through the system.

Cllr Illingworth proposed deferral as he had concerns regarding consistency and perception and couldn't see any harm in deferring.

The Advice and Applications Manager advised that there is nothing preventing them asking for a deferral and asking for the applications to come together, however the risk or harm if it is not dealt with in a timely manner is that the applicants could appeal due to non-determination.

Cllr Holmes seconded the proposal to defer.

Cllr Bush agreed with Cllr Illingworth.

Cllr Cumbers commented that the applications are two separate matters and should stand alone so she could see no reason to defer.

The Chair felt the application should be deferred and both applications should come back to committee together, due to lack of information.

A vote was taken. 7 Members voted for deferral and 4 voted against deferral.

The Advice and Applications Manager clarified that the reason for deferral was purely to bring back the LBC application to committee with the FUL application and that no further information was required.

This was agreed by the Members.

DETERMINATION:

Deferred - to be reported to a future committee meeting together with the associated planning application for the proposed works.

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- (5) **Reference:** 14/00657/FULHH
 Applicant: Mr S Palmer
 Location: Devonvale, 11 Easthorpe View, Bottesford
 Proposal: Construction of 1.8m closed board feather edge and post fencing with recessed panelling, garden shed/workshop and green house.

Cllr Rhodes left the meeting at 7.30pm

- a) The Advice and Applications Manager stated that: This application seeks permission for the construction of 1.8m closed boarded fence with recessed

panelling, garden shed/workshop and greenhouse. The site is located at 11 Easthorpe View, Bottesford.

Since publication of the reports comments have been received from the Parish Council. The Parish Council wish to sustain their original objections that when the property was built there was no fencing as it was intended to be an open area.

Two additional comments have been received;

One stating that a compromise would be shortening the length of fence to rear of garage rather than to the front, scalloping and stained green as per two sample panels, tree planting recesses as suggested.

A further letter of objection to the revised plan stating that it does not change any of the points in previous correspondence. The reiterate that it is an open plan estate which has been ruined by No. 11 fence in a prominent position.

In response to these the proposed fence is proposed to include recessed panels but to stain the fence brown and not with the scalloping as per the two end panels seen on the site visit.

The site has been the subject of a number of applications and the latest amended plans proposes the shortening of the fence to start to the rear of the garage and to add recessed panels to allow for planting. The application includes the addition of a greenhouse and shed/workshop to the rear of the garage. The site is within a residential development and it is considered that the proposed amendments are an improvement and it is not considered that the amended proposal would detract from the character of the area. The application is recommended for approval as set out in the report.

b) Michael Goodwin, on behalf of the objectors, was invited to speak but could not attend due to adverse weather conditions. He had asked if an Officer could read out his comments on his behalf. The Applications and Advice Manager read out Mr Goodwin's statement:

1. *The reason for this planning amendment is the third attempt to gain retrospective permission for the fence. The workshop and green house being relegated to a minor element within the application.*
2. *Once it was obvious to the planners that the original application was indeterminate it should have been withdrawn and a new application initiated based on the negotiated proposal.*
3. *Information regarding the changes to the amended application are poor with regard to dimensioning.*
4. *The amended application was not posted locally as promised. The majority of the residents being kept in the dark about the change.*
5. *The planning application had never been posted on the parish planning web*

pages.

6. *The fence remodelled to appear as it does on the planning application would remain unsightly. It does not meet the visual standard recommended by the planners on the two previous failed applications.*
7. *The application should be viewed in the context of the Easthorpe View estate. Its significance is to the immediate locality not to the village in general.*
8. *The Environmental Agency and the Severn Trent Water Authority have not been asked to comment on the application. The right of access for water and drainage authorities is granted on the original planning permission.*
9. *The recommendation to approve comes with a number of conditions that require monitoring.*
10. *The Landowners do not have the right to do what they will on their own land.*
11. *The result of breaching planning regulations should not allow a benefit to be gained by the developer.*
12. *The planning process is not only about the interaction between the planners and developers. It is equally about the interaction between planners and the public.*
13. *Perhaps with hindsight, the permitted development order process provides the solution to the matter. The permitted development order process provides a methodology which if used originally would have simplified the whole process. Building a one metre high fence along the boundary edge, together with a two metre long gate installed along the fence line towards the north western end of the property would have provided the security of the property and access for the utility companies. The workshop and green house could then be built as required.*

The Chair Commented that the water authority have right of way.

The Advice and Applications Manager commented that a panel can be lifted up to provide access for the water authority as required.

- c) Jessica Palmer, on behalf of the applicant, was invited to speak and stated that: she wished to outline more information with regards to the garden boundary fence. The Leylandi hedge on our land was taken down, not without thought, as it was very high at 9 to 10 ft. tall, extremely patchy with large gaps and showed signs of disease. Our intention was to improve how it looked therefore we decided to put up a natural looking fence that we planned to paint and scallop. However we were not given the opportunity to complete this task as we received negative feedback on the fence, putting the whole project on hold. Unlike the other properties on Easthorpe View our back garden sits to the side of our

property and runs along a boundary and this is our private garden. The boundary and fence provides security. There was a potentially serious incident at Christmas involving an elderly gentleman with dementia who was wandering and disorientated. Our fence stopped him wandering in to our garden, close to the river. We plan to create recesses along the fence which will soften the outlook with colourful bushes, trees and plants. Along with painting it a natural blended colour. The shed will enable us to complete the project as it will store unsightly materials. The majority of objections were due to them thinking it would be unsightly but our closest neighbour has no objections and he is the most greatly affected.

Cllr Baguley recalled that there was a suggestion last time the application was brought to committee that the applicant and the Parish Council talk to each other and try to make an agreement.

The Chair commented that it is not easy to have a dialogue with Bottesford Parish Council. She added that she would prefer to see a green fence as it is more pleasing to the eye. Local residents believed that there was a covenant on the estate but this is not a planning issue. The property is on the approach to the road and they need privacy. **The Chair proposed approval** of the application.

The Advice and Applications Manager advised that Condition 6 on page 6, stated that the fence should be stained brown however it could be changed to green if required.

The Chair asked for the condition to be amended to green as part of the approval.

Cllr Baguley commented that she wished they could set the fence back slightly and plant in front of it.

Cllr Holmes commented that she had suggested the recesses and she felt the fence should be scalloped. It is the garden for that house and they need security. The River Authority needing access to the weir makes a lot of difference. **Cllr Holmes seconded** the application with the condition that the fence would be painted green and it would have scallops, as it softens appearance.

The Chair agreed to scallops being added as a condition to her proposal to permit.

The Advice and Applications Manager advised that scalloping could not be imposed as a condition.

Cllr Holmes suggested that the application should be delegated to officers to permit subject to the amended suggestions.

The Advice and Applications Manager clarified that they were seeking an amendment and that if they couldn't seek an amendment they would bring it back to committee.

Cllr Bush confirmed his support but that he wasn't too concerned regarding the

scallops.

Cllr Cumbers felt she couldn't support the application as she would prefer to see it set back with planting in front. It's on the edge of the pavement and very long.

Cllr Illingworth added that this application was no better than any of the previous proposals and raised concerns that they are changing specification without seeing amended plans.

A vote was taken to delegate the decision to the Officers subject to the amendments requested and the right of way to the weir. 8 Members voted for the proposal and 3 Members voted against.

DETERMINATION:

Delegated authority to officers to approve – subject to green finish and scalloped tops to fence panels.

-
- (6) **Reference:** 14/00703/FULHH
 Applicant: Anthony Edwards
 Location: Ridge View, Station Road, John O Gaunt
 Proposal: Extension and double garage

Cllr Posnett left the meeting at 7.45pm

- a) The Advice and Applications Manager stated that: This application seeks planning permission for a two storey extension to an existing dwelling in the open countryside. The plans have been amended to omit a balcony to the rear on the extension and replace it with inward opening doors and a Juliet balcony at first floor.

Since publication of the report is considered that a further condition is required in relation to the provision of boundary treatment on the shared boundary. It is suggested that a condition requiring details of boundary treatment along the northern and western boundaries is submitted and approved prior to commencement of development in the interest of residential amenities.

There are no updates to report.

It is considered that the revised plans removes direct overlooking of and loss of privacy to the neighbouring dwelling. The extension is considered to be visually acceptable and the replacement garage is considered to be acceptable in terms of visual and residential impact. As such the application is recommended for approval as set out in the report.

b) Miss Patel, on behalf of the objectors, was invited to speak and stated that: we live adjacent to the applicants property and as a result we will be adversely affected should the application be approved. The Council have been given false information regarding the exact location of the applicants property with regards to proximity to our property. No strip of land exists between the applicants property and ours, as shown on the proposed plan which is completely inaccurate and misrepresentative. The applicants property boundary adjoins our garden to the back and side, therefore the extension will directly overlook our property. Our garden will be below the proposed extension and the proposal to install a Juliet balcony on the first floor extension will directly overlook our garden and home. This will cause further loss and invasion of our residential privacy and impact on our peaceful enjoyment of our home and garden. The proposed patio doors on the ground floor will open out to full view of our garden. This will cause a loss of privacy, direct overlooking, trespass, encroachment, possible nuisance and an interference of our ability to use our garden privately. We are still yet to understand what will be constructed on the boundary, whether it will be the wall of the extension or a fence. Neither the Council or applicant has stated this but we would prefer a wall. It is an inappropriate design and not in keeping with the area. The works would encroach on our land and they would need to access our garden to carry out work. We do not give permission for this, all building works should be carried out on the applicants own land.

Cllr Holmes asked for clarification regarding Miss Patel mentioning trespass.

Miss Patel responded that they would be accessing their land without permission to carry out work.

The Chair reminded Members that this was not a planning consideration as it is a civil matter.

Cllr Illingworth asked for clarification regarding the allegedly incorrect plan.

Miss Patel responded that the plan shows a strip of land between our boundary and theirs but it doesn't actually exist.

c) Mr Edwards, the applicant, was invited to speak and stated that: in 2008 a similar application was passed by Melton Borough Council but it has now lapsed. The original plans were resubmitted as we assumed the criteria had not changed. My architect has worked closely with planners and has altered the plans to suit the changes in legislation requirements. We have noted the objectors concerns and have tried to be sympathetic. I believe 5 of the objectors don't even live in the area, but appreciate freedom of speech.

The Advice and Applications Manager commented that Members had visited the site to appreciate the relationship with neighbouring properties. With regards to access onto land for building works, it is a civil matter and needs to be resolved by the two parties and is not a planning consideration. Further information regarding boundary

treatments has been requested. This plan needs to be submitted to us and we would need to approve it before they can start work.

The Chair commented that the application may need deferring until they receive confirmation of the boundary. She felt that there should be daylight between boundaries.

Cllr Holmes added that she also felt that there should be daylight between them and that if it had already been passed 8 years ago then it couldn't be that different.

The Advice and Applications Manager showed the differences in the plans. The amended plans had removed the balcony.

Cllr Holmes asked for clarification that there was an area so it could be built.

The Advice and Applications Manager advised on the plan that there was a red line showing a strip of land.

The Chair commented that the application could be approved but that they may not be able to complete the works due to access issues.

Cllr Holmes proposed to permit the application.

Cllr Illingworth seconded the proposal. He felt the planned extension has paid due to respect to the neighbours and been sympathetically altered. He believed it took the neighbours in to account and the reasons for objection were unfounded.

Cllr Bush agreed with Cllr Illingworth.

Cllr Freer-Jones asked for clarification regarding the boundary treatment.

The Advice and Applications Manager responded that there is already a garage where the extension will be. She asked the Members if they would want to put a condition on regarding the boundary treatment, that the applicant would have to submit details of their boundary prior to commencement.

The Members agreed they would like this condition to be put in place.

A vote was taken and the Members voted unanimously to permit subject to the condition on the boundary treatment.

DETERMINATION:

Approved ,subject to the conditions in the report and an additional condition relating to boundary treatment as outlined above.

(7) **Reference:** 14/00801/FUL
 Applicant: Mr & Mrs C Foster
 Location: 76 Church Lane, Long Clawson
 Proposal: Change a small piece of the field into a garden at the rear
 of the property

- a) The Advice and Applications Manager stated that: This application seeks the change of use of a small part of a field to the rear of a new dwelling to create a larger garden. The field lies outside of the village envelope for Long Clawson. There are no updates to report and the application is recommended for approval as set out in the report.

No speakers had registered.

Cllr Holmes proposed to permit the application and **Cllr Botterill seconded** the proposal.

A vote was taken and the members voted unanimously to permit.

The Chair added that she hoped they were going to construct a balcony on the first floor where there were French doors.

The Applications and Advice Manager commented that the building was still under construction.

DETERMINATION:

Approved, subject to the conditions in the report.

Cllr Baguley left the meeting at 8.04pm

(8) **Reference:** 14/00860/FUL
 Applicant: D & A (2113) Limited
 Location: Wilkinson Store, 25-35 Nottingham Street, Melton Mowbray
 Proposal: Proposed shop front alterations, demolition of lift
 shaft and first floor lift motor
 room and erection of first floor link corridor to reinstate
 two separate retail units

- a) The Advice and Applications Manager stated that: This application was deferred from the previous committee to seek further information on the proposed use of the upper floor. The Agent has confirmed that the first floor would be ancillary retail area reflecting the existing use.

A further comment has been received reiterating that they consider it will be

detrimental to the town if this application allows it to be reinstated as two units, there is a lack of large retail units in the town centre, the loss of space that shops like Wilkinsons require is also detrimental to the shopping experience of the Public in general.

It is considered that the subdivision of the shop complies with Policy S4 and the intentions of the NPPF and would retain the units for retail purposes. Accordingly the proposal is recommended for approval as set out in the report.

No speakers had registered.

Cllr Holmes asked for clarification as she thought this application had been refused.

The Advice and Applications Manager advised that there had been two applications and one had been refused which was the COU, whereas this one had been deferred. She confirmed that application concerned the shop front alterations.

Cllr Holmes proposed to refuse the application as she felt that we need to keep some larger units in the town and that it was vital for Nottingham Street and the town.

Cllr Bush seconded the proposal.

The Regulatory Services Manager clarified that the reason for the refusal was the subdivision of the larger unit into two small retail units would have an adverse impact on vitality of the town centre.

Cllr Cumbers commented that the town is short of large retail units.

Cllr Illingworth commented that he had read some statistics that backed up this point and that the town needs to retain a mix of unit sizes.

The Advice and Applications Manager commented that the calculations related to the other application with regards to counting shop fronts. This application is retail so we wouldn't need to do these calculations. They are to prevent the town ending up with a row of non-retail.

The Chair added that a gentleman had commented we are saturated with food outlets.

Cllr Cumbers commented that there are already plenty of empty small units.

The Regulatory Services Manager clarified that it is considered that there is an adequate supply of small units already and they are well represented within the town.

A vote was taken, 9 Members voted for refusal and 1 voted against refusal.

DETERMINATION:

Refused for the following reason:

The proposal would lead to the loss of a large unit by sub-division into two smaller units, which are already well represented in the town centre. It would, therefore, detract from the vitality of the town centre contrary to the objectives of the NPPF (part 2:'Ensuring the Vitality of Town Centres')

D76. CONFIRMATION OF TPO – 14/00738/TPO

The Regulatory Services Manager explained that the tree was subject to a temporary TPO and that Members needed to consider whether that Order should be confirmed .. There were objections to the confirmation of the order, including unsubstantiated concerns about damage to neighbouring property. The expert advice provided to the Council was that this was a prominent tree which is in good health. It is recommended that the Order is confirmed.

Cllr Orson, an elected member of the Council, was invited to speak and stated that: he knows Grimston and the tree well. The tree is a Sycamore and it is a poor specimen and self-set. The impact on the street scene is debateable as it is not adjacent to road, it's tucked behind. There is tremendous support from the neighbours, The Ward Councillor- Cllr Hutchinson and the Parish Council. The applicant has guaranteed to replace the tree with a similar one. An improvement could be made to the area by planting a more suitable tree. The Sycamore is not natural to the UK.

Cllr Holmes asked who the applicant was.

Cllr Orson confirmed that it was a Mr Griffiths but that the tree belongs to the church.

Cllr Bush commented that if another tree is planted that the replacement trees roots may cause damage to surrounding properties as well. He felt the tree didn't look a poor specimen. **Cllr Bush proposed to preserve** the TPO.

Cllr Holmes seconded the proposal and added that the house in front shouldn't be there as it only got built on appeal. She commented that there is nothing wrong with the tree and it's a travesty to take it down. It belongs to the church not Mr Griffiths.

Cllr de Burle asked for clarification regards trimming the tree with a TPO.

The Chair confirmed that it can still be pruned with a TPO.

Cllr Cumbers commented that removal of the tree would be a loss.

Cllr Botterill added that it is a lovely balanced tree.

A vote was taken, 8 Members vote for the proposal and 1 voted against. 1 Member could not take part in the vote as they had momentarily left the room during the discussion.

DETERMINATION:

That the Tree Preservation Order is confirmed

D.77 COMMITTEE UPDATE – DEVELOPMENT CONTROL PERFORMANCE REPORT: 14/15 QUARTER 3

The report was noted by the Members.

The Chair asked for it to be put on record that there had been mitigating circumstances for the planning team with over 1000 applications received in 2014. She advised Members that the Officers need their support. She also commented that the appeal record had been affected by the Inspectorate moving goalposts regarding village envelopes.

Cllr Illingworth commented that he totally supported The Chairs comments. The volume and depth of details in reports have increased significantly. He suspected that there is more work with less people. He commented that he is not disappointed with the planning department but he is disappointed with the system. He stated that he had no criticism of the performance.

Cllr Freer-Jones commented that she was supportive of the planning department and felt they need more staff and need more support from Management and Councillors.

The Chair commented that more training had been suggested by higher Members of the Council.

Cllr Freer-Jones added that planning is one of the busiest departments.

Cllr Cumbers suggested that the planning department needs more administration staff.

Cllr Freer-Jones left the meeting at 8:26pm.

The Advice and Applications Manager reassured Members that herself and Kirsty McMahon (who shares the Advice and Applications Manager post) had put measures in place to assist with the additional workload. The Regulatory Services Manager has been in post for over a year now and has helped dealing with major planning applications. It is the volume of smaller applications which are more controversial in nature with associated public interest and letters of objection which

take considerable officer time.. We have failed to meet 90% delegation but that is because more applications are coming to committee. Numbers of applications reported to committee have increased from about three items to this meeting with twelve items. Existing and temporary staff are being offering additional hours where this can be supported by increased income. It is being closely monitored and we are looking at different ways of improving.

Cllr Botterill commented that the Members had received training and now the planning department are being criticised. We are diverse in our opinions but we are being questioned.

The Chair commented that the workload had nothing to do with training.

Cllr Sheldon commented that the rules keep changing. We make the best decision we can with the information before us. With the advance of technology it makes commenting more accessible and emails are received all the time, which creates more work.

The Regulatory Services Manager thanked the Member for their support. With regards to staffing and budgets the whole Council has to work within budgets, but Planning has a capable and flexible team. We bring in extra resource when needed and can be paid for. It is inappropriate to comment on budgets .

The Advice and Applications Manager added that we assist and support applicants as much as we can, to restrict the number of Ombudsman complaints. This takes extra time but is of a benefit to us. We learn and develop and move on. There are inconsistencies from the inspectorate but we have to learn from it. It is a policy environment.

The Chair commented that Cllr Sheldon had made a good point regarding technology.

Cllr Holmes commented that it can't help the planning team when the Leader says no more building, on the big applications, until we have a bypass.

Cllr Cumbers added that countywide goalposts are constantly being moved. The Core Strategy was turned down. There is lots more pressure on us.

Cllr Orson commented regarding the highways report. We can't stop applications coming in but they could take us for non-determination.

The Chair commented that applicants are talking together in the south but not in the north.

Cllr Bush commented that builders will want to test the document.

The Advice and Applications Manager commented that they are observed carefully for everything and advised Members that the planning team try to guide them through the process as best they can.

The Chair commented that the Members all need to work together and that the planning team have their support.

Report noted and efforts of officers to meet performance supported by Members as summarised above

D78. URGENT BUSINESS

The Regulatory Services Manager noted that Members had previously requested some training regarding highways. A discussion took place and it was the general consensus that the training should take place at 5pm before the next meeting on 19 February 2015.

The Advice and Applications Manager suggested that they change the 19 February 2015 committee meeting to commence at 6.30pm to accommodate the highways training and to allow for a short break before committee. This was agreed.

The meeting commenced at 6.00 pm and closed at 8.42pm