

18 October 2016**Agenda Item: 4****REPORT OF CORPORATE DIRECTOR – PLACE****BASSETLAW DISTRICT REF. NO.: 1/16/00768/CDM**

**PROPOSAL: RETROSPECTIVE APPLICATION TO RETAIN A POLE MOUNTED
CCTV CAMERA**

**LOCATION: PROSPECT HILL INFANT AND NURSERY SCHOOL, MAPLE DRIVE,
WORKSOP**

**APPLICANT: THE HEAD TEACHERS - PROSPECT HILL INFANT AND NURSERY,
SCHOOL AND PROSPECT HILL JUNIOR SCHOOL**

Purpose of Report

1. To consider a planning application for the retention of a pole-mounted CCTV camera on the driveway shared by Prospect Hill Infant and Nursery School and Prospect Hill Junior School in Worksop. The key issues relate to school security, impact on residential amenity, and privacy concerns. The recommendation is to grant planning permission subject to the conditions set out in Appendix 1.

The Site and Surroundings

2. Prospect Hill Infant and Nursery School and Prospect Hill Junior School are situated on a shared campus on Maple Drive within a residential estate approximately 2km to the north of Worksop town centre. Prospect Hill Junior School is situated closest to Maple Drive with the separate Infant and Nursery school sited to the rear. A bungalow (14 Maple Drive) is situated directly adjacent to the shared access drive to the west of the school entrance. Residential properties lie opposite the school on the northern side of Maple Drive. (Plan 1)
3. The schools campus boundary with Maple Drive is formed of perimeter green mesh security fencing with mature hedging and trees. The vehicle and pedestrian entrances, secured by entry gates are located at the north-west corner of the frontage adjacent to the neighbouring bungalow. The boundary with the bungalow is formed by a 2.0m high mature hawthorn hedge. Intercom and remote gate control systems are in place. A 3m high pole-mounted fixed direction CCTV camera, the subject of this application is set back approximately 12m inside the gates, and 20m back from the highway, and is sited on the grass verge alongside the access road and adjacent to the bungalow (Plan 2). The CCTV camera looks towards the entrance gates and the public highway on

Maple Drive beyond. It is understood that the camera has been in place for approximately one year.

4. A vehicle driveway to 17 Maple Drive lies directly opposite the school entrance gate. The front garden of number 17 is enclosed by a leylandii hedge which screens ground floor windows from view from the school entrance.

Proposed Development

5. The pole and camera have been erected without the benefit of planning permission. Permission is sought retrospectively to retain the erected 3.0m high fixed-position pole-mounted CCTV camera overlooking the entrance drive. The pole is coloured black.
6. The application is made jointly by both schools who each take a live feed from the camera to permit remote access to the school vehicular and pedestrian entrance gates. The schools' offices are alerted to persons wanting to gain access to the campus by intercom. The camera also provides site security through continuous monitoring and recording of images of the school entrance.
7. The schools have confirmed that the camera is fixed and cannot rotate or elevate unless manually moved. Planning officers have reviewed the CCTV images and the control software at both schools' offices. Using the software it is not possible to move or zoom the camera. It is possible to make the image display as a full-screen on the monitor however this does not alter the extent of the captured image.
8. The captured colour image is of good quality and shows in real time the school driveway, along with the double steel mesh gates and the pedestrian footway into the school. The image also captures the highway and the wheelbase of any parked cars opposite. It does not view the driveways or any other aspects of facing properties or any aspect of the adjacent bungalow at 14 Maple Drive. The camera has no audio capability and cannot capture conversations. Therefore whilst the camera does view elements of the public highway it does not view private property. Passing vehicles or pedestrians along Maple Drive are not readily identifiable as the camera is angled down on the entrance gates, where it can clearly see a vehicle turning in and out of the school site as well as pedestrians using the adjacent pedestrian gate.
9. The schools have confirmed that the camera has been installed and positioned so as to only view the area of the school gates and not any of the houses or driveways opposite. The schools consider the proposed pole and camera to be a proportionate response to their safeguarding needs. The installation has been reviewed since its introduction and the schools are content that the CCTV is used simply to maintain safety of children, staff and visitors.

Consultations

10. **Bassetlaw District Council** - No objection.

11. **NCC (Highways) Bassetlaw** – No objection. *The proposals are not considered to create an adverse impact upon the safe operation of the adjacent highway network.*
12. **Police Force Architectural Liaison Officer**- No response received.

Publicity

13. The application has been advertised by a site notice and by five neighbour notification letters to the closest affected properties in accordance with the County Council's Adopted Statement of Community Involvement Review. A further statement from the school was subsequently shared with the neighbours.
14. Six letters of objection have been received from three neighbours raising the following points:
 - a) A general feeling of private property being watched and consequent loss of privacy and compromising home security.
 - b) The camera monitors private property continually which is contrary to Article 8 Human Rights Act (right of respect for private and family life).
 - c) The camera is contrary to the Data Protection Act - the filming/monitoring of private property is excessive, not proportionate and not relevant to the stated purpose for providing security to school children.
 - d) The camera is contrary to Surveillance Code. CCTV should only capture images up to the school boundary.
 - e) The camera is recording the full range of the lens, whereas the images displayed on the office monitor are being adjusted to fit by the associated software. This means that private property is being recorded.
 - f) It is a simple procedure for the schools to adjust the camera angle meaning there is nothing to stop them from adjusting it as and when they please.
 - g) An image of the CCTV monitor/screen has been provided purporting to show the camera view extending across onto private property.
 - h) The school has not been open and honest about the full extent of the CCTV monitoring and has previously given conflicting information.
 - i) The presence of the camera is resulting in stress and ill-effects to health and wellbeing. The camera is an intrusion into private life.
 - j) Fear over ease of access to the recordings.
 - k) No other Worksop school has CCTV on their gates. It should be sufficient for CCTV on the main school doors, as all other doors open into securely fenced areas.
 - l) Irritating noise of buzzer on the intercom system.

- m) Questions are raised about possible audio recording and whether the camera is able to rotate.
 - n) Unrelated concerns about parking and tree works are raised.
15. Councillor Alan Rhodes has requested the application be considered by Planning and Licencing Committee and that consideration be given to privacy concerns raised by neighbouring residents.
16. The issues raised are considered in the Observations Section of this report.

Observations

Background

17. CCTV cameras can be installed without the need for planning permission. There are Permitted Development Rights available for cameras fixed to a building (*Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 2 Class F*) subject to limitations on appearance, number and heritage impact. There are limitations on the number of cameras and how they are fixed to a building; a condition requiring cameras to be sited so as to minimise effect on the external appearance of the building; and that the camera is removed as soon as reasonably practicable after it is no longer required. The limitations on permitted development rights concern themselves with the appearance of the camera installation and not what the system is viewing or monitoring. However, permitted development rights do not extend to free-standing or pole mounted CCTV cameras except for Crown rights for the purpose of national security (Part 19, Class S).
18. The proposed camera does not benefit from permitted development rights and requires express planning permission. The application should be determined in consideration of the policies of the Development Plan and having regard to any material considerations. In this case the Development Plan consists of the adopted Bassetlaw Core Strategy & Development Management Policies DPD – 2011 (BCS), with the National Planning Policy Framework (NPPF) being a material consideration. Due regard should be given to effects on general and residential amenity in consideration of BCS Policy DM4 – *Design and Character* and this assessment should consider both the appearance of the installation as well as what is being viewed or monitored.
19. It is understood that the camera was installed on advice offered to the schools by a County Council Educational Improvement Advisor to improve security and safeguarding at the site. The camera allows the schools to see who is requesting entry when the gates are closed during the school day and, together with an associated intercom and gate control mechanism, allow each school office to remotely check the visitor in and out of the site and remotely open and close the gates. The camera records digital images continually which are retained for an appropriate but not indefinite period.

Safeguarding and crime prevention

20. The security of the site and the proper safeguarding of pupils is a material planning consideration. Paragraph 58 of the National Planning Policy Framework (NPPF) states that planning decisions should aim to create safe and accessible environments where crime, and disorder and the fear of crime, do not undermine quality of life or community cohesion. A core planning principle is to help improve health, social and cultural wellbeing for all and deliver sufficient community facilities to meet local needs.
21. The pole and camera are situated at an established school site within the built-up area of Worksop. The supporting statement accompanying the application states that the camera system has greatly improved school security by preventing any unauthorised entry to the site and also by monitoring to ensure that unaccompanied children do not leave the site. The schools add that safeguarding is a national, local and school based priority, and that the camera equipment is an essential item without which the safety of children, staff and visitors could be severely compromised.
22. Security cameras are more frequently installed at school sites and if sited appropriately can achieve safeguarding and site security. The installation at this site allows both schools to vet visitors on entry and remotely control the automatic gates. Such systems are commonplace in commercial and mixed-use settings and may not always require planning permission if erected as permitted development. The principle of a security camera at the school entrance is considered to accord with the aims of NPPF Paragraph 58 by providing a safe school environment, and came about following safeguarding advice.

Design and amenity

23. Objections to the retention of the pole mounted camera have been received from three nearby residents citing privacy and amenity concerns. BCS Policy DM4 – *Design and Character* (in part) states that:

New development should support stimulating and safe streets and public spaces, with active frontages at ground level to public spaces; have appropriate landscaping and boundary treatments (retaining historic walls and hedgerows); integrate crime prevention measures where this will not compromise the other principles of good design; and provide useable and functional open space.

New development should ensure that it does not have a detrimental effect on the residential amenity of nearby residents; provides a decent standard of private amenity space; ...and is not to the detriment of highway safety.
24. The appearance of the camera is considered to be acceptable. Whilst it is noted that the objectors see the pole and camera, in some cases from their property, it is not prominent in the street-scene and is set well back within the school driveway behind the entrance gates. The height of the pole is substantially lower than a street lighting column, for example, and the black painted finish does not make it visually prominent and is considered to be appropriate.
25. The issue in contention relates to the extent (or perceived extent) to which the camera is viewing property, other than school property, and the consequent loss of private amenity and privacy for nearby residents. The school entrance drive is

situated opposite 9, 17, 19 and 21 Maple Drive and is adjacent to the bungalow at 14 Maple Drive all of which have been notified of the application.

26. At its limits the camera is able to capture the wheelbase/lower half of a vehicle turning into or out of the driveway of 17 Maple Drive. However this is a limited glimpse and would be in addition to the passage of other traffic along the road. It is reasonable to expect the camera to capture the traffic within the road as it needs to deal with vehicles entering and leaving the school site. The camera is angled down such that only the lower part of vehicles continuing along Maple Drive are captured and this would include a vehicle accessing the property directly opposite.
27. As the highway is part of the public realm, members of the public generally expect and are acceptable of security surveillance, although privacy expectations do vary. Non-domestic operators of CCTV systems in such arenas, including schools, need to abide by a framework of other legislative and regulatory provisions. These include:
 - The Data Protection Act 1998
 - Freedom of Information Act
 - Protection of Freedoms Act 2012
 - Surveillance Camera Code of Practice (and Surveillance Camera Commissioner)
 - Human Rights Act
28. The Surveillance Camera Code of Practice includes 12 guiding principles for the use of CCTV systems. The school states that due regard has been given to the surveillance camera code and it is noted that they are registered with the Information Commissioners Office. They state that the camera installation is regularly reviewed to ensure it is still required. If correctly operated the system would be used as intended to control access and egress to the site and in the interests of children safeguarding and site security. To use it in a different way to survey the comings and goings of vehicles not associated with accessing the school would be contrary to the surveillance camera code and would be an issue beyond that with which the planning system should concern itself. Members should note that the CCTV industry and CCTV installations are covered under these other provisions and it is for the schools and the Governing body to oversee this and operate the camera in a compliant manner.
29. It is the stated view of an objector that the camera is more flexible than the evidence shows. In particular it is believed that the monitors are not showing the full extent of the camera recording and that a wider view is being captured on the recordings. In response the schools state that this is simply not the case and that the image is the total image that is being recorded. There is no reason to doubt this is the case. Planning officers have viewed the playback of various recordings captured by the system and the extent of the view is no different to that provided in the still images (Plan 3).

30. Evidence provided by an objector in the form of a black and white 'screen shot' from one of the school's monitors claiming to show a wider angle/view of the camera has been reviewed by planning officers. This dates from an earlier time and it shows a slightly wider camera image to that viewed by officers. It is also claimed that this image shows a driveway opposite as well as the associated garage door. The image is of poor quality although it is possible to make out the base of a parked car, along with the opposite footway and the threshold onto the private driveway. This is at the extreme corner of the camera image. This image has clearly contributed to the perception of the camera recording private property. An incident involving damage to the adjacent intercom unit, has also be cited as a concern that the camera is capable of recording a wider angle.
31. The discrepancy between this screen shot and current images provided by the school and viewed by planning officers can be explained in that the camera angle has previously been lowered by the school at the request of an objector and secondly it is also understood that a repair had to be undertaken due to excessive moisture build-up clouding the lens. This screen shot image submitted by the objector is not the image currently being captured.
32. Whilst there is clearly a perception of an impact on privacy and of being watched, there is no evidence that the camera, as installed, is recording private property and does not result in a detrimental effect on the residential amenity of the nearest residents, nor result in an unacceptable loss of privacy.
33. Although the retention of the camera would not satisfy the local objectors, in order to provide some satisfaction to them that the camera is incapable of monitoring private property planning conditions are recommended to specify that approval is given to the camera and lens currently installed and to require this not be altered, replaced or adjusted without the approval of the County Planning Authority. Consideration has been given to whether use of the camera outside of school hours should be restricted by planning condition, but to do so would remove the general site security benefit which the camera provides.
34. Members of the public have a right at any time to request a copy of the image from the school under the Data Protection Act and/or the Freedom of Information Act should they wish to satisfy themselves that the camera is being correctly operated thereafter. Such requests are subject to any exemption to that right which might apply under the relevant legislation and can be subject to a small administrative fee. Any complaints subsequently received by this authority alleging non-compliance with the terms of a planning permission would be investigated in the usual way.

Oher Issues

35. The Highways Authority is satisfied the camera does not pose a risk to the safe use of the highway. The gateway is set back from the road allowing waiting vehicles to pull clear of the highway.
36. A question has been raised by a resident regarding a 'buzzer' noise on the gate intercom system. It is understood this cannot be disabled and is outside of the scope of this application, being separate to the proposed camera installation.

Conclusion

37. The application is adjudged to accord with BCS Policy DM4 – *Design and Character* in terms of the acceptable form and scale of the CCTV camera installation, and that it is installed so as not to adversely impact on local amenity and neighbour privacy. The CCTV contributes to ensuring a safe and secure environment and supports the functioning of these local community schools in accordance with the aims of NPPF Paragraph 58.

Other Options Considered

38. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted. Accordingly no other options have been considered.

Statutory and Policy Implications

39. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Implications for Service Users

40. The continued provision of the CCTV camera meets the requirements of the school for security and safeguarding purposes. The school is responsible for its proper operation under the Surveillance Camera Code of Practice and related legislation.

Crime and Disorder Implications

41. The development concerns a security camera installation which serves to secure the site and control access and egress to the schools.

Human Rights Implications

42. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6.1 (Right to a Fair Trial) are those to be considered and may be affected due to the direction and range of view of the CCTV camera. The proposals have the potential to give rise to unacceptable loss of privacy to neighbouring occupiers through incorrect installation, adjustment or operation. However, this potential impact needs to be balanced against the wider benefits the proposal would provide in providing security to the school while safeguarding the privacy of neighbouring

occupiers through the imposition of planning conditions to limit and control the scope and operation of the CCTV camera. Members need to consider whether the benefits outweigh the potential impact and reference should be made to the Observations section above in this consideration.

Safeguarding of Children Implications

- 43. The camera installation serves a direct safeguarding purpose at the school site and was originally recommended by County Council Educational Improvement Advisor.
- 44. There are no Financial, Human Resource or Equalities implications and there are no Implications for Sustainability or the Environment.

Statement of Positive and Proactive Engagement

- 45. In determining this application the County Planning Authority has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies, all material considerations, consultation responses and any valid representations that may have been received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

- 46. It is RECOMMENDED that planning permission be granted for the purposes of Regulation 3 of the Town and Country Planning General Regulations 1992 subject to the conditions set out in Appendix 1. Members need to consider the issues, including the Human Rights Act issues, set out in the report and resolve accordingly.

TIM GREGORY

Corporate Director – Place

Constitutional Comments

Planning and Licensing Committee is the appropriate body to consider the content of this report.

[RHC 03/10/2016]

Comments of the Service Director - Finance

There are no specific financial implications arising directly from this report.

[SES 27/09/16]

Background Papers Available for Inspection

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

Electoral Division and Member Affected

Worksop North East and Carlton – Councillor Alan Rhodes

Report Author/Case Officer

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For any enquiries about this report, please contact the report author.

APPENDIX 1

RECOMMENDED PLANNING CONDITIONS

1. Planning permission is granted for the retention of the installed pole-mounted CCTV camera which shall not be replaced, moved, reconfigured, tilted or adapted without the prior written approval of the County Planning Authority (CPA).

Reason: For the avoidance of doubt as to the development permitted.

2. Planning permission is granted for the retention of the installed pole-mounted CCTV camera in accordance with the approved application details and the following documents:
 - a) Planning application form and certificates received by the CPA on 18 May 2016;
 - b) Location plan, supporting statement and photographs received by the CPA on 13 May 2016;
 - c) Email statement from the Head Teacher Prospect Hill Infant and Nursery School received by the CPA on 6 September 2016; and
 - d) Email from the Head Teacher Prospect Hill Infant and Nursery School received by the CPA on 15 September confirming installation height at 3m; and
 - e) Camera make/model and lens specification [to be confirmed].

Reason: For the avoidance of doubt as to the development permitted.

3. Notwithstanding the position of the CCTV pole shown on the approved location plan, the approved location of the pole and CCTV camera is the position shown on photographs in the supporting statement received by the CPA on 13 May 2016.

Reason: For the avoidance of doubt as to the development permitted.

4. The approved camera installation shall not at any time provide surveillance of and private property and shall only view school land and the adjacent public highway.

Reason: In the interests of preserving residential amenity in accordance with Policy DM4 of the Bassetlaw Core Strategy and Development Management Policies DPD.