

Meeting: Planning and Rights of Way Committee

Date: Tuesday 12 March 2024 (commencing at 10:30am)

Membership:**COUNCILLORS**

Mike Quigley MBE (Chairman)
Jim Creamer (Vice Chairman)

Mike Adams (apologies)	Andy Meakin
André Camilleri (apologies)	Nigel Moxon
Robert Corden	Philip Owen
Sybil Fielding	Francis Purdue-Horan
Paul Henshaw (apologies)	Gordon Wheeler
Rachel Madden (apologies)	

SUBSTITUTE MEMBERS

Pauline Allan for Paul Henshaw
Richard Butler for André Camilleri
Chris Barnfather for Mike Adams

OFFICERS AND COLLEAGUES IN ATTENDANCE:

David Arnold	-	Head of Planning and Environment
Cai Beacham	-	Planning, Monitoring and Enforcement Officer
Wayne Bexton	-	Service Director, Green Growth, Investments and Assets
Rebecca Kirkland	-	Planning Support Officer
James Lavender	-	Democratic Services Officer
Jaspreet Lyall	-	Barrister and Legal Advisor to the Committee
David Marsh	-	Major Projects Senior Practitioner
Jonathan Smith	-	Team Manager, Development Management
Tim Turner	-	Senior Practitioner, Monitoring and Enforcement

PUBLIC SPEAKERS IN ATTENDANCE:

Amanda Bourne (Nottinghamshire County Council)	-	Development of Special Educational Needs School including ancillary parking, playing pitches, fencing and landscaping, including alterations to existing highway junction and
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access road – Land north of Ravensdale Road, Mansfield

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| Councillor Lesley Way/
Councillor Carys Thomas
(Local Residents)
Councillor Matt Barney
(Nottinghamshire County
Council)
Martin Pettitt
(Nottinghamshire County
Council) | - | Section 73 application to vary plans approved by Condition 3 of Planning Permission 8/22/00570/CTY – Erection of a Primary School for 1.5 forms of entry, plus 26 place Nursery with associated car parking, associated areas of soft play, hard play, grass playing field with landscaping works. Erection of 2.4m high security fencing and gates to perimeter and sprinkler tank. Provision of bound surface and lit cycle and footpath on route of Public Footpath East Leake FP5 – Millside Spencer Academy Primary School, Evans Road, East Leake, LE12 6AS |
| Councillor Sybil Fielding
(Nottinghamshire County
Council)
John Nichol (Severn Trent
Water) | - | Installation of a new sewage pumping station comprising a new pump house kiosk, chemical dosing rig, hardstanding, and boundary fencing – Ashes Park Avenue, Gateford, Worksop, Nottinghamshire, S81 7NH |

1. MINUTES OF THE LAST MEETING

The minutes of the last meeting held on 30 January 2024, having been circulated to all Members, were taken as read and were confirmed and signed by the Chairman.

2. APOLOGIES FOR ABSENCE

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| Mike Adams | - | illness |
| André Camilleri | - | other county council business |
| Paul Henshaw | - | other county council business |
| Rachel Madden | - | illness |

3. DECLARATIONS OF INTERESTS

The Chairman of the Committee, Councillor Mike Quigley MBE, declared a registerable interest in Agenda Item 5 as Chair of the Diverse Academies Trust who had placed an application to run the Special Educational Needs School on Ravensdale Road, Mansfield if approved for planning permission. For this item, Councillor Quigley would step down as Chairman and leave the Council Chamber, whilst the Vice Chairman, Councillor Jim Creamer, would step in as Chairman for this item only.

Councillor Sybil Fielding had referred the planning application in Agenda Item 7 to this Committee and would speak against the application. She would then leave the meeting for this item only.

4. DECLARATIONS OF LOBBYING

No declarations of lobbying were made.

5. DEVELOPMENT OF SPECIAL EDUCATIONAL NEEDS SCHOOL INCLUDING ANCILLARY PARKING, PLAYING PITCHES, FENCING AND LANDSCAPING, INCLUDING ALTERATIONS TO EXISTING HIGHWAY JUNCTION AND ACCESS ROAD – LAND NORTH OF RAVENSDALE ROAD, MANSFIELD

(Councillor Mike Quigley MBE stepped down as Chairman for this item having declared a registerable interest. He left the Council Chamber and Vice Chairman Councillor Jim Creamer stepped in as Chairman for this item).

David Marsh, Major Projects Senior Practitioner, introduced the application and gave a presentation which included the following information:

- The site once contained a former secondary school annex and playing field which was demolished in 2012;
- Whilst pedestrians could walk through the site, there were no public rights of way across the site;
- Sport England object to the loss of the former school grass playing field, however the Planning Officers believed that the benefits of the new school facilities, such as all-weather pitches and multi-use games area outweighed the loss of the playing field;
- The parking arrangements would accommodate for both staff and visitors. Drop-off and pick-up provisions were also included;
- Any works to the Ravensdale Road highway spur must not prejudice any future development in the immediate area, including an application being considered by Mansfield District Council for a housing development;
- Planning conditions on the design of an acoustic fence and bio-diversity net gains were included as part of the planning permission.

Amanda Bourne spoke on behalf of the applicant (Nottinghamshire County Council) and in support of the application whilst raising the following points:

- School census data for Nottinghamshire indicates that there are 15,330 children identified as having Special Educational Needs. 22.3% of these children have social, emotional and mental health needs, whilst 21% have autistic spectrum disorder;
- To provide for these children, the school required well-designed, robust spaces, which could be used flexibly by the users, as well as providing natural spaces for therapeutic use and biophilia. The designs of the school catered for children who may become over or under stimulated by providing easily accessible and

robust spaces for the children to step away, emotionally regulated their state, and then return to learning;

- The design process provided a low stimulating starting point that eased the cognitive load, and affording the foundations for secure self-regulation, under distracted communication, and focused engagement;
- By breaking the building into self-contained finger blocks, these contained all the facilities that the children needed, along with larger communal spaces. The classrooms were of sufficient space and provided direct access to the outside area in which the children could provide a positive calming environment;
- The ultimate ambition for the school was to provide the same learning ambitions to the children as in any other school. A specialist curriculum was designed to allow for study from Key Stage 2 through to GCSE, A-Level and post-16 vocational courses.

During the debate, Members raised the following issues:

- Members expressed approval of the designs of the school which provided flexible and secure spaces for the pupils of the school with minimal concern or interruption to residents. The pick-up and drop-off points incorporated into the designs were welcomed;
- There were questions raised about the objection from Sport England and the provision of bat surveys arising from the consultation with Mansfield District Council's Ecologist.

In response to queries from Members, the Major Projects Senior Practitioner clarified:

- Sport England were consulted for this application, but were not a statutory consultee;
- The County's Council's Environmental Consultant was satisfied with the Applicant's ecological appraisal, so no further surveys were required.

RESOLVED (2024/04):

- 1) That the grant of planning for the purposes of Regulation 3 of the Town and County Planning General Regulations 1992, subject to the conditions as set out in the report and varied by the changes to Conditions 4 and 24 in the published report, including the insertion of a new Condition 25 and re-numbering of subsequent conditions set out in this presentation, be approved.

(Councillor Mike Quigley MBE returned to chair the rest of the meeting).

6. **SECTION 73 APPLICATION TO VARY PLANS APPROVED BY CONDITION 3 OF PLANNING PERMISSION 8/22/00570/CTY – ERECTION OF A PRIMARY SCHOOL FOR 1.5 FORMS OF ENTRY, PLUS 26 PLACE NURSERY WITH ASSOCIATED CAR PARKING, ASSOCIATED AREAS OF SOFT PLAY, HARD**

PLAY, GRASS PLAYING FIELD WITH LANDSCAPING WORKS. ERECTION OF 2.4M HIGH SECURITY FENCING AND GATES TO PERIMETER AND SPRINKLER TANK. PROVISION OF BOUND SURFACE AND LIT CYCLE AND FOOTPATH ON ROUTE OF PUBLIC FOOTPATH EAST LEAKE FP5 – MILLSIDE SPENCER ACADEMY PRIMARY SCHOOL, EVANS ROAD, EAST LEAKE, LE12 6AS

David Marsh, Major Projects Senior Practitioner, introduced the application and gave a presentation which included the following information:

- The planning history of the site and the site layout details;
- The main planning issues related to the sports pitch and the need to provide suitable flood compensation. The design of the pitch required the construction of a wall to retain excavated ground;
- The retaining wall was constructed in late 2023, before work stopped due to very poor weather. The works are expected to re-start in April 2024;
- The application was referred to the Committee due to a number of representations being made by residents. They raised concerns about the possible extended use of the school outside of school hours and the use and maintenance of paths provided by housebuilders.

Councillor Lesley Way, a Member of Rushcliffe Borough Council, but speaking in her capacity as a local resident, raised the following issues:

- Whilst Councillor Way was not objecting to the application, believing that the playing area would be an outstanding addition to a thriving popular school, there were concerns about how the construction had been carried out prior to the planning application and the lack of care for the surroundings.
- There was a lack of care for the trees within the compound fencing, which also included the trees and shrubs along a path at the end of Sheepwash Way, thus removing them from protection during construction. Security fencing was removed and some was thrown into the hedges.
- As outlined in Paragraph 46 of the report, the galvanised steel fence on top of the wall was not sympathetic to the context of the area, despite the report author's comments that it would not stand out when seen against the background woodland;
- Whilst it was stated in the report that any exposed tree roots would be covered and care taken to minimise damage, Councillor Way had evidence that this was not the case;
- The footpath was heavily littered on the part which fell under the ownership of a third-party. The heavy volume of litter could be a potential hazard to the public;

- Conditions were requested that any damaged trees and shrubs impacted by construction along the footpath be replaced, the amenity area be reinstated, a more suitable fence for the top of the retain wall to be provided and the owner of the strip of land on which the footpath is located and the litter has built up on should be made to clear the path and be responsible for its maintenance.

Councillor Carys Thomas, a Member of Rushcliffe Borough Council, but speaking in her capacity as a local resident, raised the following issues:

- In support of Councillor Way's comments, further detailed plans and conditions were required as the original plans did not consider the comments of Sport England for the playing field construction;
- Access to the playing fields needs to be legal, safe and properly surfaced;
- Gravelled foot and cycle path from Evans Road to Sheepwash Way was not adequately surfaced for the footfall that the school generated. This raised questions about whether the path was laid out properly. No drainage was included on the path;
- Estate management company maintains the path. Residents paid a fee and the school does not contribute. This could compromise the safety of the children walking between the school and the playing field. Poor pathway conditions could deter use of the playing fields.
- No vehicular access to the field, especially for emergency services.
- Parts of the public right of way are footpaths only, and not for bicycles and vehicles;
- A condition should be included that the Applicant should work with the landowner to bring the path back into a useable surface. Another condition should be included for the County Council to adopt the path between Evans Road and Sheepwash Way as an official right of way.

Councillor Matt Barney, the Nottinghamshire County Council Member for Leake and Ruddington, spoke in favour of the application and raised the following points:

- The school was being delivered over a ten-year period. £14 million has been spent and it was a fantastic asset to the community. Without the school, 77 children last year and 124 children this year would have attended a school outside of the village;
- The planning application represented the completion of the school. The pertinent issue of the application was delivering the concrete wall to meet the standards set by Sport England. Whilst it was not the most aesthetically pleasing wall, it was inconsequential to the overall benefits of the school and it helped provide the playing fields which were an incredible sport facility which

would hopefully be replicated at other schools in Nottinghamshire. Similar comments were made about the galvanised barrier;

- The use of gravel on the path was approved by Rushcliffe Borough Council and whilst Councillor Barney supported any move to make the path an official right of way, these were not matters to be decided by this planning application;
- The strip of land in third-party ownership was not a matter to be determined as part of the application.

Martin Pettitt spoke on behalf of the applicant (Nottinghamshire County Council) and in support of the application whilst raising the following points:

- Martin Pettitt supported Councillor Barney's comments.

Jaspreet Lyall, Nottinghamshire County Council's (NCC) Legal Advisor to the Planning and Rights of Way Committee addressed Members about the material considerations for this planning application. He referred to the Government's Planning Practice Guidance, which stated that *"In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application"*. This meant that the only condition being considered was the construction of the retaining wall for the sports pitch/playing field. He also stated that it was not lawful to ask someone to give up land via a planning condition, which would be relevant if the County Council planned to make the path a right of way. This view was recently upheld in a Supreme Court case in 2022.

During the debate, Members raised the following issues:

- Whilst the site was not ideal when construction began, there were demands from residents of East Leake for the school. There were no objections from Rushcliffe Borough Council, Environment Agency, the County Council as the Lead Local Flood Authority, the County Council's Conservation Team, the County Council's Highways Development Control and East Leake Parish Council;
- Questions were raised about the lack of comments from Sport England;
- The wall would weather and blend in with the school.

In response to queries from Members, the Major Projects Senior Practitioner clarified:

- During the construction period, more of the wall would be seen as the soil was not yet in place which would raise the level of the land. less of the wall would be seen when construction was completed;
- As the County Council owned the land on which the school was based, it did have rights of vehicular access to the playing fields;
- David Wilson Homes were responsible for the maintenance of the path;

- The loose gravel seen from photographs on the path was for temporary use for allowing construction access to the site;
- Sport England were consulted in the original application and the design of the sport pitches met the requirements set out by Sport England.

RESOLVED (2024/05):

- 1) That the grant planning permission for the purposes of Regulation 3 of the Town and County Planning General Regulations 1992, subject to the conditions as set out in the report and subject to the inclusion of the additional plan to the schedule in Condition 3 as set out in the presentation, be approved.

7. INSTALLATION OF A NEW SEWAGE PUMPING STATION COMPRISING A NEW PUMP HOUSE KIOSK, CHEMICAL DOSING RIG, HARDSTANDING AND BOUNDARY FENCING – ASHES PARK AVENUE, GATEFORD, WORKSOP, NOTTINGHAMSHIRE, S81 7NH

Jonathan Smith, Team Manager for Development Management, introduced the application and gave a presentation which included the following information:

- The site location and context. There was an existing pumping station located on the site, which was owned by Bassetlaw District Council;
- Permitted development works have already commenced;
- There were three objections from residents on the grounds of visual amenity. Councillor Fielding referred this application to the Committee as there were some concerns around the project;
- Proposals to mitigate any visual impact from the development include the proposed fencing and kiosk being painted holly green, tree and hedge planting and an earth bund.

Councillor Sybil Fielding, the County Council Member for Worksop West, spoke against the application and raised the following points:

- There were serious concerns about how the consultation by Severn Trent Water had been carried out;
- There was a lack of notice to residents about the working hours, which were taking place from 7am to 6pm, six days a week, with additional working hours on Sundays;
- Bassetlaw District Council worked with Severn Trent Water to provide extra trees and other forms of screening;

- Severn Trent Water possessed a Community Cohesion Policy which they failed to adhere to during the public consultation for this application. They hosted a consultation event with residents at a building on the other side of Worksop at an inconvenient time of the day (3pm – 6:30pm), when most residents would be at work;
- There was a loss of open space in one of the most dense housing development in Worksop;
- Whilst there is a need for Severn Trent Water to upgrade the sewage disposal network in light of the increased housing in and around Worksop, Severn Trent Water could have handled community relations much better;
- Whilst Councillor Fielding did not object to the application, she had been notified by a resident who had received a letter from Severn Trent Water asking what influence they had over Councillor Fielding. A subsequent apology letter was written by Severn Trent Water and delivered to Councillor Fielding. As a result of this incident, Councillor Fielding took the decision not to participate in the debate and vote on the application.

(Councillor Sybil Fielding left the Council Chamber and did not participate in the subsequent discussion and vote on this item).

John Nichol, the Agent of the Applicant (Severn Trent Water Ltd) spoke in support of the application whilst raising the following points:

- This project highlighted the failures of Severn Trent Water to carry out its the community consultation. Going forward, Severn Trent Water would work much closer with communities on projects like this, whether they required planning permission or were allowed under permitted development, and inform residents of these projects at the earliest possible opportunity. Severn Trent Water would work with Nottinghamshire County Council and other county councils to ensure that the process was smoothed out and improvement to the community consultation process were made.

During the debate, Members raised the following issues:

- The main residents' concerns were visual impact and odours. The report effectively explained the visual impact mitigations. As the nearest house was 80 metres away from the proposed pumping station, there would be a minimal impact to visual amenity and from sewage odours. Across the country, many residents were not aware that there was a pumping station located near them as they are so successfully embedded within the community. probably don't know a pumping station is within their community. The report highlighted measures in place to manage any foul smells with help from the Environment Agency and the Council's own Environmental Services;
- Whilst there would always be weekday disruptions resulting from construction projects, it was not reasonable for developers to continue to work during weekends and bank holidays when it would disrupt the free time of residents;

- The discussions with Severn Trent Water about smoothing over the community consultation process was welcome, particularly as a new pipeline would be laid in Nuthall soon.

In response to queries from Members, the Team Manager for Development Management clarified:

- Condition 6 of the planning permission would control working hours;
- The positioning of the new proposed pumping station close to the existing one sought to minimise the loss of open space;
- A meeting with Severn Trent Water representatives would take place next week to discuss other projects within Nottinghamshire and how to effectively manage the community consultations regarding those projects.

RESOLVED (2024/06):

- 1) To approve the grant of planning permission subject to the conditions as set out in the report.

(Councillor Sybil Fielding returned to the Council Chamber).

8. ADOPTION OF THE COUNTY COUNCIL'S LOCAL REQUIREMENTS FOR THE VALIDATION OF PLANNING APPLICATIONS

Jonathan Smith, Team Manager for Development Management, introduced the report.

RESOLVED (2024/07):

- 1) That the Adoption of the County Council's Local Requirements for the Validation of Planning Applications be noted.
- 2) That permission for officers to make changes to the document to reflect any updates to the National Planning Policy Framework (NPPF) and other referenced documents, in consultation with the Chairman and Vice Chairman of Planning and Rights of Way Committee, be authorised.

9. DEVELOPMENT MANAGEMENT PROGRESS REPORT

Jonathan Smith, Team Manager for Development Management, introduced the report.

RESOLVED (2024/08):

- 1) That the Development Management Progress Report be noted, with no additional actions required in relation to its contents.

There being no further business, the Chairman closed the meeting at 11:48am.

CHAIRMAN