

REPORT NO: 11/2015

DEVELOPMENT CONTROL AND LICENSING COMMITTEE

6TH JANUARY 2015

**PLANNING APPLICATIONS TO BE DETERMINED BY THE
DEVELOPMENT CONTROL AND LICENSING COMMITTEE**

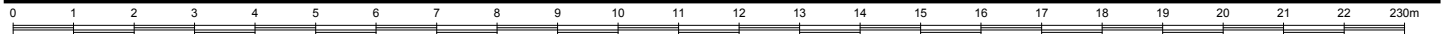
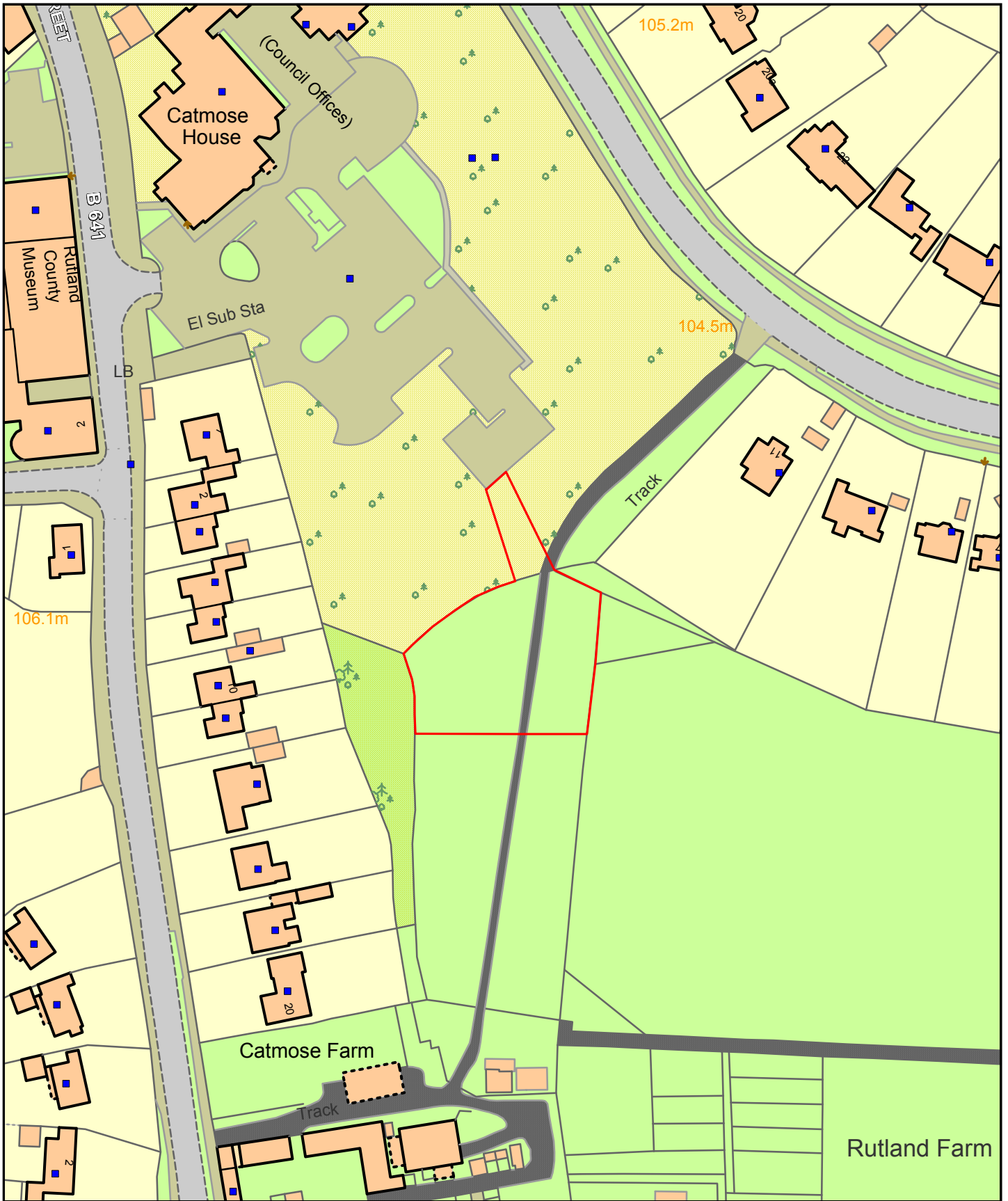
**REPORT OF THE DIRECTOR FOR PLACES
(ENVIRONMENT, PLANNING AND TRANSPORT)**

Rutland County Council

Development Control & Licensing Committee – 6th January 2015

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Ordnance Survey [100018056]

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Time of plot: 09:46
Date of plot: 22/12/2014



Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2014/0846/RG3	ITEM 1	
Proposal:	Regulation 3 application for extension of existing car park at Rutland County Council offices, into land adjacent to existing car park. Land is currently pasture land, part of Rutland Farm Park.		
Address:	Catmose Car Park Extension, Catmos Street, Oakham		
Applicant:	Mr Neil Tomlinson, Rutland County Council	Parish	OAKHAM
Agent:	N/A	Ward	Oakham South East
Reason for presenting to Committee:	Council Application		
Date of Committee:	6th January 2015		

EXECUTIVE SUMMARY

The proposal requires the removal of a small number of trees; however this will not significantly alter the treescape of the area. Additionally, the proposal will not harm the character or appearance of Oakham Conservation Area and will not cause any ecological harm to the area. The proposal is therefore acceptable.

RECOMMENDATION

APPROVAL, subject to the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 14-07-01A (received 03/11/2014), 14-07-02A and LPA-01.

Reason: For the avoidance of doubt and in the interests of proper planning.

Note to applicant:

The applicant's attention is drawn to the recommendations in the submitted Botanical Survey.

Site & Surroundings

1. The application site is situated to the south of the 'car share' parking area at Catmose Car Park, Catmose Street, Oakham and is within Oakham Conservation Area.

2. This site includes and is surrounded by several mature trees, of which many are protected by a group Tree Preservation Order. These trees are significant features of the landscape and the Conservation Area.

Proposal

3. The proposal is for a change of use from park land to car park. This will allow the Catmose Car Park to be extended, creating approximately 60 additional parking spaces. The car park will be accessed through Catmose Car Park and not Stamford Road.

Relevant Planning History

None

Planning Guidance and Policy

National Planning Policy Framework

Section 11 – Conserving and enhancing the natural environment

Section 12 – conserving and enhancing the historic environment

The Rutland Core Strategy

CS1 – Sustainable development principles

CS2 – The spatial strategy

CS18 – Sustainable transport and accessibility

CS21 – The natural environment

CS22 – The historic and cultural environment

Site Allocations and Policies Development Plan Document

SP1 – Presumption in favour of sustainable development

SP15 – Design and Amenity

SP19 – Biodiversity and geodiversity conservation

SP20 – The historic environment

Consultations

Natural England

Standing advice set by Natural England should be a material consideration in the determination of this application.

Ecology

A habitat survey was requested and detail in regards to the impact of the development upon trees and the trees suitability for bats. Following submission of the Botanical Survey and an Arboriculture Impact Assessment the comments were updated to state that there are no objections to the development, but recommend the applicants' attention is drawn to the report.

Town Council

'Unable to make a decision as members felt they had insufficient information.' The Town Council have been provided with the Botanical Survey and the Arboriculture Impact Assessment

and if any further comments are received members will be updated through an addendum report.

Joyce Lucas Oakham Town Councillor

I fail to understand why the construction traffic will use the access via Stamford Road and why the parking cars cannot do the same. As I understand the plan to gain access to the new car park will cut across the Sustrans route. At the moment I cannot agree to these proposals. This is a very ancient site and must not be vandalised in such a way.

Conservation Officer

No objection. The site is an area of open grassland within Oakham Conservation Area but is not prominent and does not make a significant contribution to its character or appearance. The use of the land as an extension to the existing car park will not harm the appearance of the conservation area.

Neighbour Representations

None

Planning Assessment

The main issues are:

- Impact upon the Conservation Area
- Impact of the development upon Trees
- Impact of the development upon Ecology

Impact upon the Conservation Area

4. The site lies within the Oakham Conservation Area and is to the south of the grade II Listed Catmose building.
5. This proposal will not harm the setting of the grade II Listed Catmose, due to its distance to the building and the existing car park within its grounds.
6. A small number of trees are proposed to be felled through this application; however this will not significantly alter the character or appearance of the Conservation Area and is therefore acceptable (see section below for more detail).
7. Due to the presence of large mature trees this site is largely screened. The materials proposed for the access and car park are 50mm single size decorative gravel. These materials are more appropriate to this site, than tarmac used for the majority of the Catmose car park, due to its 'parkland' character. Therefore it is concluded that the proposal will not harm the appearance of character of the Conservation Area.

Impact of the development upon Trees

8. An arboricultural impact assessment has been submitted alongside this application. This report recommends that four trees, protected by a group TPO, should be felled due to their poor condition. The removal of these four trees will not result in a significant change to the treescape of the area and their removal is acceptable.
9. The report also identifies several small young trees which are outside the group tree preservation order, which are to be felled to allow the access for the car park to be constructed. As these trees are small young specimens their amenity value to the area is limited and therefore their removal is acceptable.
10. To ensure the car park does not damage the protected trees the report identifies mitigation techniques in regards to the materials used to construct the access track and car park. This includes a 'cellweb' technique which is 'no dig', permeable and will not compact the surface ensuring the development does not damage the tree roots. Additionally protective fencing is recommended during construction to ensure machinery and works do not cause any damage to the trees above ground level.
11. The council's arboricultural consultant has assessed the report and raises no concerns with the recommendations and mitigation measures proposed.
12. It has been confirmed by the Highways Manager that the contractor for the works will be instructed to work within the recommendations of the report, and adhere to the method statements within it. Due to this a condition in regards to the mitigation measures is not recommended as this can be dealt with internally by the Highways team.

Impact of the development upon Ecology

13. An ecology survey has been submitted alongside this application. The survey was completed outside the optimal survey season; however the ecologist has provided a detailed species list, indicating that the grassland is not of the Local Wildlife Site quality.
14. Additionally the report identified a mature Oak Tree to the north east of the site which meets the criteria to be a candidate wildlife site; however the application will not have an impact upon this tree.
15. It is therefore concluded that the development will not result in an impact upon Ecology and is acceptable.



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Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2014/0905/FUL	ITEM 2	
Proposal:	Retrospective application to remove existing fence and replace with open rail fence with open rail electric gate to allow access		
Address:	1, Deans Terrace, Uppingham		
Applicant:	Mr William Towell	Parish	UPPINGHAM
Agent:	N/A	Ward	Uppingham
Reason for presenting to Committee:	Recommend enforcement action		
Date of Committee:	6 th January 2015		

EXECUTIVE SUMMARY

This application proposes a new access (retrospectively) which is detrimental to highway safety, both vehicular and pedestrian. Additionally the application proposes a mix of boundary treatments along a prominent street within Uppingham which will fail to preserve or enhance Uppingham Conservation Area. It is also recommended that enforcement action be authorised to ensure the removal of the dangerous access.

RECOMMENDATION

A. **REFUSAL**, for the following reasons:

1. The proposed open rail fence with open rail electric gate to allow an access and associated parking does not make provisions to allow a vehicle to exit the site in a forward gear at right angles to the highway and does not provide adequate pedestrian visibility splays. The proposal therefore poses a highway safety risk, contrary to Policies CS18 of the adopted Core Strategy (2011) and SP15 of the Site Allocations and Policies Development Plan Document (2014).
2. The proposal would result in a mix of boundary materials which are not in keeping with the surroundings in a prominent location within the Conservation Area. The application, therefore, fails to preserve or enhance the character of Uppingham Conservation Area and is contrary to Policies CS22 of the Core Strategy (2011) and SP20 of the Site Allocations and Policies DPD (2014).

B. Authorise Enforcement Action to secure removal of the existing fence and gate.

Site & Surroundings

1. The application site is 1 Deans Terrace, situated off North Street West, Uppingham. The property is an end terrace of a row of red brick properties and is within Uppingham Conservation Area.
2. The rear garden is approximately 4 metres in width (north to south) and approximately 12 metres in length (east to west). The entire rear garden is block paved. The southern elevation and boundary of the rear garden create the boundary to the footpath of North Street West.

3. This application is a retrospective application and relates to changes made to boundary treatments, descriptions are therefore given to both the boundary treatment prior to the unauthorised works and the boundary treatment at present.

Prior to unauthorised works

4. The southern boundary treatment consisted of a small dwarf wall (approximately 4/5 brick courses high); which appears to be historic as bricks appeared to link to the main property. The dwarf wall was topped with concrete slabs and a close boarded panel fence. To the south eastern corner and the eastern boundary a brick wall exists.

Current situation

5. The small dwarf wall and fence has been removed. A new close boarded fence has been erected. A large element of this fence is attached to an electric sliding gate, with remote control operation, which has created a new access into the site. This allows the applicant to park their car within the rear garden.

Proposal

6. This proposal is to retain the access to the site and replace the unauthorised close boarded fence with metal railings. The proposed metal railings would be 1.9 metres in height. The electronic mechanism will be retained to allow the gate to be opened by remote control.
7. A small element of the fence to the west is proposed to be retained.

Relevant Planning History

None

Planning Guidance and Policy

National Planning Policy Framework

Section 7. Requiring Good Design

Section 12. Conserving and enhancing the historic environment.

The Rutland Core Strategy (July 2011)

CS1 – Sustainable development principles

CS2 – The spatial strategy

CS18 – Sustainable transport and accessibility

CS19 – Promoting good design

CS22 – The historic and cultural environment

Site Allocations and Policies Development Plan Document (October 2014)

SP1 – Presumption in favour of sustainable development

SP15 – Design and amenity

SP20 – The historic environment

Consultations

8. Highways Authority
Objection. Scheme has no visibility, no turning facilities to ensure vehicles can enter and leave the highway in a forward gear, gates within 5 metres of the highway boundary and vehicle cannot access and egress at right angles to the carriageway. Railings are still not suitable they will be within the visibility splay, and when viewed from certain angles will still provide a solid block.
9. Uppingham Town Council
Recommend approval.
10. Conservation Officer
The existing fence is an unattractive feature in the street scene and does not preserve or enhance the appearance of this part of Uppingham Conservation Area. The proposed replacement full height railings would not be an improvement, since the rear yard and garden would then be open to view. The traditional boundary treatment would be a brick wall and this would be the preferred alternative.

Neighbour Representations

11. Mr Ian Reeds, 2 Deans Terrace, Uppingham
Supports the application.
12. Philip Camm, 2 North Street West, Uppingham
Objects to the proposal, stating the proposal is illogical and dangerous and should not be permitted.

Planning Assessment

The main issues are:

- Removal of the dwarf wall and fence
- Impact upon the Conservation Area
- Highway safety

Removal of the dwarf wall and fence

13. Prior to the demolition of the dwarf wall and fence, planning permission should have been sought, as they abutted a highway (including a public footpath or bridleway) and the combined height exceeded 1 metre in height. The application does not seek retrospective permission for this demolition.

Impact upon the Conservation Area

14. North Street West is a historic street within Uppingham. The boundary treatments along this road vary, however they are historic in nature and include stone boundary walls, brick boundary walls, dwarf brick walls and railings.
15. The fence and dwarf wall which stood on the boundary prior to the unauthorised works was not a key feature within the conservation area. The fence was not characteristic of the area; however the dwarf wall appeared to have been historic.

16. This application seeks to regularise a small section of the fence (nearest the property) and the erection of open railings with an electronic sliding gate. The proposal would result in a mix of brick, railings and fencing which is not in keeping and would be detrimental to the character or appearance of the area. This proposal would therefore fail to preserve or enhance the character of Uppingham Conservation Area and is therefore contrary to Policies CS22 of the Core Strategy (2011) and SP20 of the Site Allocations and Policies DPD (2014).

Highway safety

17. The unauthorised fence was investigated by the Enforcement Officer and was assessed in conjunction with the Highways Authority prior to the submission of this application. At this stage the Highways Authority raised strong concerns in regards to highways safety due to the generation of a new access.
18. Legal opinion was obtained as to the appropriate course of action in respect of both the erection of the fence and creation of an unauthorised highway crossing. The legal opinion suggested barriers could be installed to stop the access from being used; however the Highway Authority identified this as an unsuitable approach as the barriers could pose a tripping hazard on the footpath.
19. This application seeks to regularise the newly created access to this site from North Street West. The access allows a vehicle to be parked within the rear garden of the dwelling. Due to the size restrictions of the site, for a car to leave in a forward gear at right angles to the highway a series of convoluted manoeuvres is required which involves the use of the pavement. The applicant has indicated that with their car they are able to leave the site in a forward gear at right angles (after numerous manoeuvres that require the crossing of the footpath). However, the applicant's car is small and not the size of an average car. Due to the width of the rear garden measuring 4 metres, it is not possible for the average size car (a parking space is expected to be 5.5 metres, as specified in the SAPDPD) to leave the property in a forward gear at right angles to the highway.
20. The use of the pavement for manoeuvres and the crossing of the pavement when leaving the site pose a risk to pedestrian safety. Not being able to leave the site at right angles also impedes the visibility splays required and therefore poses a highway safety concern. Additionally the pavement is not dropped in this location and therefore the applicant is illegally crossing the highway and may cause damage to the pavement, in turn creating safety hazards to pedestrians. To regularise the access in regards to Highways the applicant would be required to apply for a vehicle access permit from the Highway Authority and would be required to meet the costs of this.
21. It is stated by the highway authority that the railings can be viewed as a solid block from certain angles which may impact the visibility. To provide appropriate safe pedestrian visibility no structures over 0.6 metres in height should be erected within 2m x 2m splays. Additionally any access gates should be set back from the highway by 5 metres, to remove vehicles causing an obstruction in the highway when waiting for the gates to open. In both cases the application does not achieve these requirements, due to the height of the railings and the limited width of the site. Therefore the proposal is unacceptable in regards to highway safety.

22. The footpath along North Street West is a well-used footpath, especially by students and staff from Uppingham School. The proposal seeks to retain the brick wall to the west, which restricts pedestrian visibility to the west. This proposal therefore is unacceptable in regards to highway safety.
23. For the reasons set out above the proposal for the open rail fence with open rail electric gate, allowing a new access to the site poses highway safety issues to both vehicles and pedestrians and is therefore contrary to policy CS18(c) of the adopted Core Strategy (2011) and policy SP15(l) of the Site Allocations and Policies DPD (2014).

Enforcement Action

24. If Members are minded to accept the recommendation for refusal of the current application, it would be expedient to take action to ensure the access is no longer in use. There are several options to the council through both planning legislation and highways legislation.
25. To ensure the appropriate action is undertaken the power to take enforcement action is requested. The Director of Places (Environment, Planning and Transport) already has the necessary powers if it is decided that action under highways legislation is more appropriate.
26. Members are also asked to note the following information regarding enforcement action.

FINANCIAL IMPLICATIONS

27. Legal costs will be incurred if this matter is pursued, although this cost will be kept to a minimum. Should prosecution in the Courts become necessary, an application for costs will be made if the Council is successful. Any works carried out in default would allow the Council to recover payment from the landowner. If the Council is unsuccessful through the Courts, cost would fall to be met from current budgets.

LEGAL IMPLICATIONS

28. Under Section 172 of the Town and Country Planning Act 1990, the Council may serve an Enforcement Notice if Members are satisfied that:

There has been a breach of planning control and,

It is expedient to issue the Notice having regard to the provisions of the Development Plan and any other material considerations.

To the extent that the Human Rights Act may be engaged, it is considered that the enforcement action proposed is proportionate and justified response to the harm caused to legitimate public interests by the unauthorised development.