

Report of the Chief Executive

APPEAL DECISION

APPLICATION NUMBER:	22/00272/FUL
LOCATION:	Land adjacent 313 Nottingham Road Toton
PROPOSAL:	Change of use to residential including retention of static mobile home, touring caravan, utility / dayroom building, raised site levels and parking

APPEAL DISMISSED

The application was refused planning permission under delegated powers and the decision notice issued on 29 September 2020, for the reasons below:

- 1. The development, by virtue of its' siting within Flood Zone 3b, would fail to accord with the National Planning Policy Framework (2019) (paragraphs 155 and 159), Policy 1 of the Broxtowe Aligned Core Strategy (2014), and Policy 1 of the Broxtowe Part 2 Local Plan (2019).*
- 2. The development, by virtue of its' layout, position of development, temporary appearance of the static home and design of the utility building, would fail to accord with Policy 10 of the Broxtowe Aligned Core Strategy (2014) and Policy 17 of the Broxtowe Part 2 Local Plan (2019).*
- 3. The static home, by virtue of its position within the site and the proximity of windows to the common boundary with 313 Nottingham Road, would have an unacceptable impact on privacy for the occupiers of this property, and therefore fails to accord with Policy 10 of the Broxtowe Aligned Core Strategy (2014) and Policy 17 of the Broxtowe Part 2 Local Plan (2019).*

The Planning Inspectorate considered the appeal by way of an informal hearing.

The Inspector issued a decision letter and considered the main issues to be whether the proposal would be inappropriate development in the Green Belt; the effect of the proposed development on the openness of the Green Belt; whether the development would conform with local policies and national guidance with regard to flood risk; the effect of the proposal on the character and appearance of the local area; the effect of the proposal on living conditions of occupiers of 313 Nottingham Road, with particular regard to overlooking; whether the Council has made sufficient provision for Gypsy and Traveller sites in accordance with local policies and national guidance; whether there is overriding need for the development; and whether the harm to Green Belt, by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations, and if so, would this amount to the very special circumstances necessary to justify the proposal.

The Inspector summarised that the proposed development would have an adverse impact on the openness of the Green Belt primarily as a consequence of the raised levels associated with the change of use, and the solid boundary fence erected around the site, however as only part of the site is affected by Green Belt

assignment, the harm carries lesser weight in considering the overall planning balance.

In terms of Flood Risk, the Inspector concluded that, due to the raising of levels within the site, the development has and would increase the risk of flooding outside of the site due to displacement of flood water, primarily from the River Erewash, which is in close proximity to the site. The Inspector also concluded that the future occupiers of the site would also be at risk from flooding. The Environment Agency are unlikely to grant a Flood Risk Activity Permit for any compensation scheme such as underground water storage or other sustainable drainage schemes.

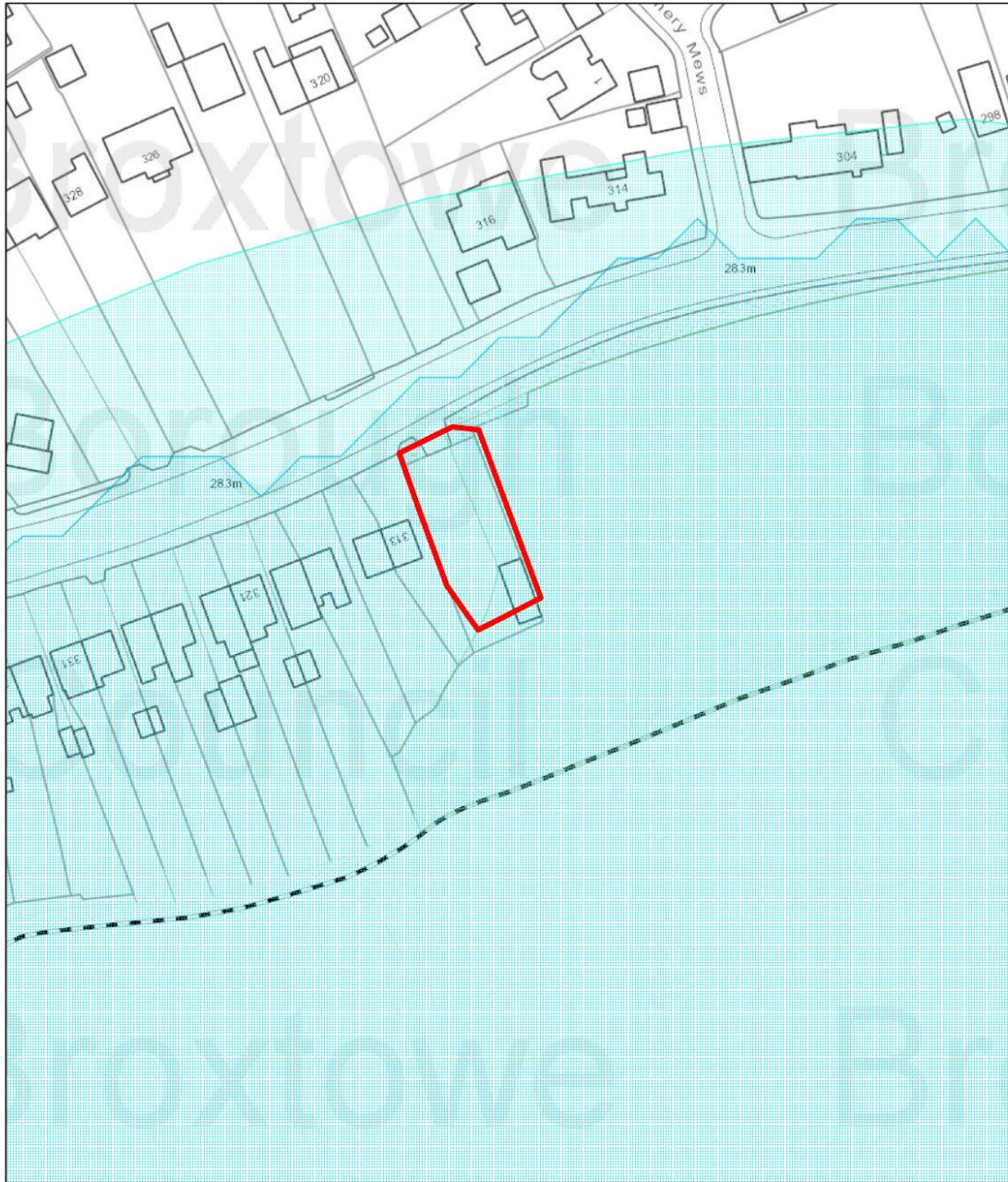
In terms of character and appearance and living conditions, the Inspector concluded that the development would appear incongruous within the street scene, even if mitigation measures such as landscaping were to be introduced. The development both as existing and as proposed would result in overlooking toward 313 and as such would have an unacceptable impact on neighbour amenity.

The Broxtowe Part 2 Local Plan (Policy 16) states that a site will be identified for two pitches to accommodate Gypsy and Traveller families before the end of 2019. This has not occurred and the Inspector concluded that the Council has failed to make sufficient provision in accordance with both local and national policies. The lack of supply is considered by the Inspector to be a significant material consideration in the determination of the appeal and that the lack of alternative sites outside of a flood zone and within the Borough and in the best interests of the children indicates that there is an overriding need for the family to find a suitable site, and this carried considerable weight in favour of the appeal.

Overall, the Planning Inspector concluded that whilst the need and lack of sites within the borough carried significant weight, and the impact on openness of the Green Belt, impact on neighbour amenity and impact on character and appearance of the street scene carried weight, it was considered that the proposal would have significant conflict with the NPPF, PPTS, the Environment Agency standing advice and Local Plan policy in relation to flood risk, and the effect of the development on other land uses and occupiers. This harm is not outweighed by the best interests of the child and overriding need. The proposals are contrary to the local development plan and national guidance, and whilst there are material considerations, these carry insufficient weight to outweigh that conflict.

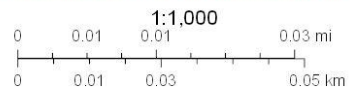
The Inspector concluded that the appeal should be dismissed.

Land adjacent 313 Nottingham Road Toton



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- Green Belt
- Flood Zone 3
- Flood Zone 2
- Site



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