

Report of the Chief Executive

APPLICATION NUMBER:	19/00243/FUL
LOCATION:	LAND NORTH OF HOME FARM COTTAGE AND PARK VIEW COTTAGE, MAIN STREET, STRELLEY, NOTTINGHAMSHIRE
PROPOSAL:	CHANGE OF USE FROM EQUESTRIAN TO MIXED USE EQUESTRIAN AND THE KEEPING OF FULLY LICENCED WILD CATS AND RETAIN THE SECURE ENCLOSURE REQUIRED FOR THEIR SAFE KEEPING.

The application has been called in to the Committee by Councillor D K Watts.

1 Executive Summary

- 1.1 The application seeks planning permission to change the use of the site to mixed use equestrian and the keeping of wild cats and to retain the enclosure required for their safe keeping.
- 1.2 The site is set within the Nottinghamshire Green Belt where there is a presumption against inappropriate development and development should not be approved except in very special circumstances.
- 1.3 The main issues relate to whether or not the very special circumstances put forward by the applicant outweigh the harm of the enclosure to the openness of the Green Belt.
- 1.4 The benefits of the proposal are that it will enable the conservation of wild animals, the welfare of which is allegedly at risk should permission not be granted. However, it is considered that the size and design of the enclosure represents significant harm to the openness of the Green Belt and is not in keeping with the rural nature of the surrounding area. The enclosure is explicitly required for the safe keeping of the wild cats and it is considered that the harm to the Green Belt is not outweighed by the very special circumstances put forward by the applicant. Furthermore the Local Planning Authority is not convinced that all other options for the safekeeping of the animals other than at the site in question have been fully explored.
- 1.5 The Committee is asked to resolve that planning permission be refused for the reason set out in the appendix.

APPENDIX**1 Details of the Application**

- 1.1 This application seeks permission to change the use of the application site from its existing equestrian use to a mixed use of equestrian and the keeping of wild cats. The application also seeks permission to retain the enclosure which has already been erected for their safe keeping. The enclosure is currently home to a puma and it is anticipated by the applicant that two further wild cats will also inhabit the enclosure in the future.
- 1.2 The application has been submitted with a Draft Unilateral Undertaking whereby the owner undertakes to carry out the following obligations:
- Not to use the said Wild Cat Enclosure for any purpose other than the keeping of the three Wild Cats in possession of the owner at the time of the application.
 - On the death or relocation to premises elsewhere of all the Wild Cats to cease use of the Wild Cat Enclosure and to remove it within three months of the cessation of use.

2 Site and surroundings

- 2.1 The application site contains a manège with stables to the north. To the north of the stables is the wild cat enclosure, which is the subject of this application. The enclosure has a link to a room within the stables, which provides the puma with shelter.
- 2.2 The site is positioned to the north of the village of Strelley, with two residential dwellings adjoining the south boundary of the site. To the west of the site is the M1 motorway, with the boundary being made up of a substantial hedgerow which is in excess of 2m in height. The north and east boundary of the site is also made up of hedgerow and adjoins a bridleway. A close boarded timber fence with a height of approximately 1.8m has recently been erected along these boundaries. There is a further residential dwelling neighbouring the site to the north east.
- 2.3 The site is located within the Nottinghamshire Green Belt and adjacent to the Strelley Conservation Area.

3 Relevant Planning History

- 3.1 The application site has a detailed planning history, with the relevant historical applications being summarised in this section.
- 3.2 In 2011, planning permission (11/00200/FUL) was granted for the change of use of agricultural land to land used for the exercise of horses (construction of a manège) and erection of a replacement field shelter. This planning permission established the equestrian use on the site.
- 3.3 In 2013, planning permission (ref: 12/00646/FUL) was granted to construct stables and erect gates at two access points on the east boundary of the site.

- 3.4 In 2013, planning permission (ref: 13/00476/FUL) was granted to retain two poles to erect CCTV cameras.
- 3.5 In 2016, planning permission (ref: 16/00165/FUL) was refused for the construction of a barn and feed store. The applicant appealed the decision and this appeal was dismissed by the Inspector. One of the reasons for refusal was that the proposal represented inappropriate development in the Green Belt and no very special circumstances applied. The proposal would not have preserved, and therefore would cause harm to the openness of the Green Belt.
- 3.6 In 2017, planning permission (ref: 17/00232/FUL) was granted for the extension of the existing stable block, which is positioned to the south of the wild cat enclosure.
- 3.7 Later in 2017 planning permission (ref: 17/00565/FUL) was granted for the enlargement of the approved extension after the building was being constructed larger than the originally approved plans.
- 3.8 In 2018 planning application 18/00123/FUL was refused for the installation of two gated accesses on the east boundary of the site. The access points are already in place however the proposed gates were considered to be of a size and design that did not have regard for the local context and was out of keeping with the character of the area.

4 Relevant Policies and Guidance

4.1 **Greater Nottingham Aligned Core Strategies Part 1 Local Plan 2014:**

4.1.1 The Council adopted the Core Strategy (CS) on 17 September 2014.

- Policy A: Presumption in Favour of Sustainable Development
- Policy 2: The Spatial Strategy
- Policy 8: Housing Mix and Choice
- Policy 10: Design and Enhancing Local Identity

4.2 **Saved Policies of the Broxtowe Local Plan (2004):**

4.2.1 The Part 2 Local Plan is currently under preparation (see paragraph 4.4). Until adoption, Appendix E of the Core Strategy confirms which Local Plan policies are saved.

- Policy E8: Development in the Green Belt

4.3 **Part 2 Local Plan (Draft)**

4.3.1 The Part 2 Local Plan includes site allocations and specific development management policies. The draft plan has recently been examined, with the Inspector's report awaited. The representations on the plan included 10 representations in relation to Policy 8 and 11 representations in relation to Policy 17. The Inspector issued a 'Post Hearing Advice Note' on 15 March 2019. This note did not include a request that further modifications be undertaken to Policy

17. Whilst this is not the Inspector's final report, and the examination into the Local Plan has not been concluded, it does mean Policy 17 can now be afforded moderate weight. As the Inspector made further comments in respect of Policy 8 this can only be afforded limited weight at this time.

- Policy 8: Development in the Green Belt
- Policy 17: Place-making, design and amenity

4.4 National Planning Policy Framework (NPPF) 2019:

- Section 2 – Achieving Sustainable Development.
- Section 4 – Decision-making.
- Section 12 – Achieving well-designed places.
- Section 13 – Protecting Green Belt Land

5 Consultations

- 5.1 **Council's Environmental Health Officer:** This consultation response relates to what is detailed on the plan as the puma enclosure, puma den and tack room. 1 wild cat currently in the enclosure is licensed under the Dangerous Wild Animals Act (As Amended). 2 further wild cats are currently licensed at the associated residential premises with the intention of being moved up to the secure enclosure, (this will result in further work being required to internally partition the enclosure and provide additional internal sleeping accommodation for the animals). None of the licensed animals were rescued animals to their knowledge. In order to maintain the current licensed animals on site, such an enclosure is required to ensure the security and welfare of the animals.

In light of the animals already being on site and the difficulty likely to be encountered in providing suitable alternative accommodation, they have no objections to planning approval being granted subject to the following recommended conditions being applied:

There shall be no general exhibition or viewing of the animals.

Reason: To protect nearby residents from excessive disturbance or operational nuisance.

They would also suggest conditions limiting any further addition or development of the enclosure beyond its existing boundaries, the addition of structures within the enclosure that are taller than the existing perimeter fencing (planting excluded) or the addition of lighting or ancillary facilities without planning permission to protect further inappropriate development of this area and protect nearby residents from excessive disturbance or operational nuisance.

- 5.2 **NCC Rights of Way Officer:** Has checked the Definitive Map for the Strelley area and can confirm that Strelley Bridleway 2 runs adjacent to the application site. A plan is attached showing the definitive route of the bridleway and requests the applicant is made aware of the legal line.

The Rights of Way section has no objection to the proposal. However, the Rights of Way team would like a standard informative note to be added to any permission granted.

5.3 Three properties either adjoining or opposite the site have been consulted and a site notice was displayed. 14 letters of objection have been received from members of the public in respect of this application. The reasons for objection can be summarised as follows:

- The enclosure is too close to the bridleway.
- It is not appropriate to keep big cats in this location. Unsafe for residents of the village and other animals such as horses and domestic pets.
- The enclosure and change of use of the land is inappropriate development in the Green Belt.
- Increase in traffic generation as a result of the development.
- The enclosure is not suitable to provide an acceptable standard of accommodation for the wild cats.
- The enclosure is out of keeping with the character of the area.
- Unacceptable smell and noise pollution created by the keeping of wild cats.

6 Assessment

6.1 The main issues for consideration are whether or not the proposal is appropriate development in the Green Belt, the design and appearance of the enclosure and the impact of the proposal on neighbouring amenity.

6.2 **Green Belt**

6.2.1 Paragraph 143 of the NPPF states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 states that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Paragraphs 145 and 146 identify a range of exceptions to inappropriate development, although the keeping of wild cats and associated facilities are not identified within these paragraphs. Therefore in accordance with Paragraph 143 of the NPPF very special circumstances would need to be demonstrated for this proposal to be considered acceptable.

6.2.2 The supporting statement provided with the application states that the puma currently occupying the enclosure, and two further wild cats which will also occupy the enclosure in the future have been fully licenced by the Council in respect of the Dangerous Wild Animals Act 1976. The Council's Senior Environmental Health Officer has confirmed that the three animals are licenced. The document goes on to state that the puma is a rescue animal that had been abandoned to a charity for wild animals in Lincolnshire. However, the charity was unable to look after the animal and sought the help of the applicant to avoid the animal being put down. It is claimed that whilst other options had been considered, the applicant acquired the puma to avoid it being put down. The reason stated for acquiring the lions is similar to that of the puma.

- 6.2.3 The statement suggests that if the wild cats are not able to be looked after by the applicant it is likely that they will be put to sleep as there are no other options for places to look after them. The statement provides no further information to reinforce the claim that there are no other facilities or organisations available in other locations to look after the wild cats in the instance that they cannot be kept at the application site.
- 6.2.4 The enclosure is a substantial structure constructed of metal mesh fencing with a maximum height of 3.84m and covering a footprint of approximately 380 sq.m. It is considered that the materials used, along with the height and size of the structure make for a robust appearance that is not in keeping with the rural surroundings and is not of a style that would typically be associated with the existing equestrian use of the site.
- 6.2.5 The east boundary of the site does help to restrict the view of the enclosure from the public realm. However, the Green Belt is characterised by the absence of inappropriate development and the absence of harmful visual effects from the public realm does not equate to an absence of harm to the openness of the Green Belt. Whilst the existing site boundary does provide screening this does not outweigh the harm caused to the Green Belt by virtue of the inappropriate development.
- 6.2.6 Paragraph 146 of the NPPF states that the material change in use of land can be appropriate in the Green Belt provided that it preserves the openness of the Green Belt. As the proposed change of use is to keep wild cats the enclosure is explicitly required for the applicant to keep the animals in accordance with the licence. Due to the size and design of the enclosure, which is not in keeping with the rural surroundings, it is considered that it results in substantial harm to the openness of the Green Belt. Whilst the case for very special circumstances appears well intentioned it is considered that there is a lack of firm evidence that all other options for the welfare of the animals have been considered which may be more appropriate than the proposed site. It is therefore considered that the considerable harm to the openness of the Green Belt as a result of the enclosure is not outweighed by the circumstances put forward by the applicant.
- 6.2.7 In the supporting statement the applicant sets out the possibility of reducing the enclosure to a maximum height of around 2m, thus suggesting that the enclosure could be constructed under permitted development. Irrespective of the permitted development position an enclosure with a maximum height of 2m would not be adequate to meet the licensing conditions for an enclosure to keep wild cats.
- 6.2.8 It is noted that the applicant has offered a Unilateral Undertaking to restrict the use of the enclosure and ensure its removal following the death or relocation of the wild cats. However, over the coming years an application could be made to vary or remove these agreements with the same case for very special circumstances being put forward to keep other wild cats in the enclosure. Should such applications come forward it could prove difficult for the Council to refuse the proposals having already established their position on the case for very special circumstances. Even if it was the case that the enclosure was to be removed on the death or relocation of the wild cats, some can live for 20 years in captivity and

to retain the enclosure for this time is considered to be unacceptable on Green Belt policy grounds.

6.3 Design and Appearance

6.3.1 The enclosure has a maximum height of 3.84m and covers a footprint of approximately 380 sq.m. It has metal mesh fencing with a cranked top to prevent the animals escaping and in order to comply with the licence requirements. The enclosure is connected to the rear of the stables to enable the puma to sleep in a secure area.

6.3.2 The enclosure is a substantial structure that significantly impacts the character and appearance of the rural environment within which it is situated. The enclosure covers a large area within the site, which in culmination with the stables to the south is considered to have a dominant impact on the application site which is harmful to the character of the surrounding area. Furthermore the materials used and the design of the enclosure with the cranked top give it a robust appearance that is not comparable to enclosures that would be used to keep horses or animals for agricultural purposes in rural areas such as this.

6.4 Amenity

6.4.1 The enclosure is approximately 95m from the nearest residential dwelling to the south of the site and approximately 45m from the nearest residential dwelling to the north of the site. Taking these distances into account it is considered that the enclosure by virtue of its presence alone does not result in any loss of amenity for any of the neighbouring properties.

6.4.2 A number of objections have been received on the grounds that the keeping of wild cats in this location presents a danger to the public and that the enclosure is unsuitable for the keeping of wild cats. As previously stated the puma and the two further wild cats that may inhabit the enclosure in the future are fully licenced, meaning the safety elements of keeping them in the enclosure have been considered by the Environmental Health team and has been found to be acceptable. It is therefore considered that a refusal on the basis that the animals represent a danger to public health and safety could not be sustained on appeal.

6.4.3 Objections have also been raised on the grounds of noise generation and smell created by the keeping of wild cats. The site has a lawful equestrian use and stables to enable the keeping of multiple horses. The nearest residential dwellings are a significant distance from the enclosure and it is considered that the keeping of wild cats would not have a significantly different impact in terms of noise generation and smell to that of its existing use.

7 Planning Balance

7.1 The benefits of the proposal are that it will enable the conservation of wild animals, the welfare of which is allegedly at risk should permission not be granted.

- 7.2 The negative impacts are that the material change of use to keep wild cats at the site explicitly requires a substantial enclosure to keep the animals in. The size and design of the enclosure represents significant harm to the openness of the Green Belt and is not in keeping with the rural nature of the surrounding area. The proposal represents inappropriate development in the Green Belt.
- 7.3 On balance it is considered that the benefits of keeping the animals on the site are not outweighed by the harm to the openness that characterises the Green Belt.
- 8 Conclusion
- 8.1 The proposed change of use and retention of the enclosure is considered to be inappropriate development that is harmful to the openness of the Green Belt. The enclosure is screened from public view by the existing site boundaries; however, this screening does not outweigh the harm caused to the Green Belt by virtue of the inappropriate development.
- 8.2 The applicant has put forward a case for very special circumstances and has offered a Draft Unilateral Agreement restricting the use of the enclosure and ensuring its removal in the future. It is considered that the harm to the Green Belt of the enclosure is not outweighed by the potentially very special circumstances put forward. There is also the possibility of future applications being made to alter the agreements within the Draft Unilateral Undertaking which may be difficult for the Council to resist.
- 8.3 Overall it is recommended that planning permission be refused and enforcement action taken to remedy the breaches of planning control. In the event of enforcement action being taken it is considered reasonable to allow a maximum of 6 months for the applicant to have the opportunity to find a solution for the housing of the animals.

Recommendation

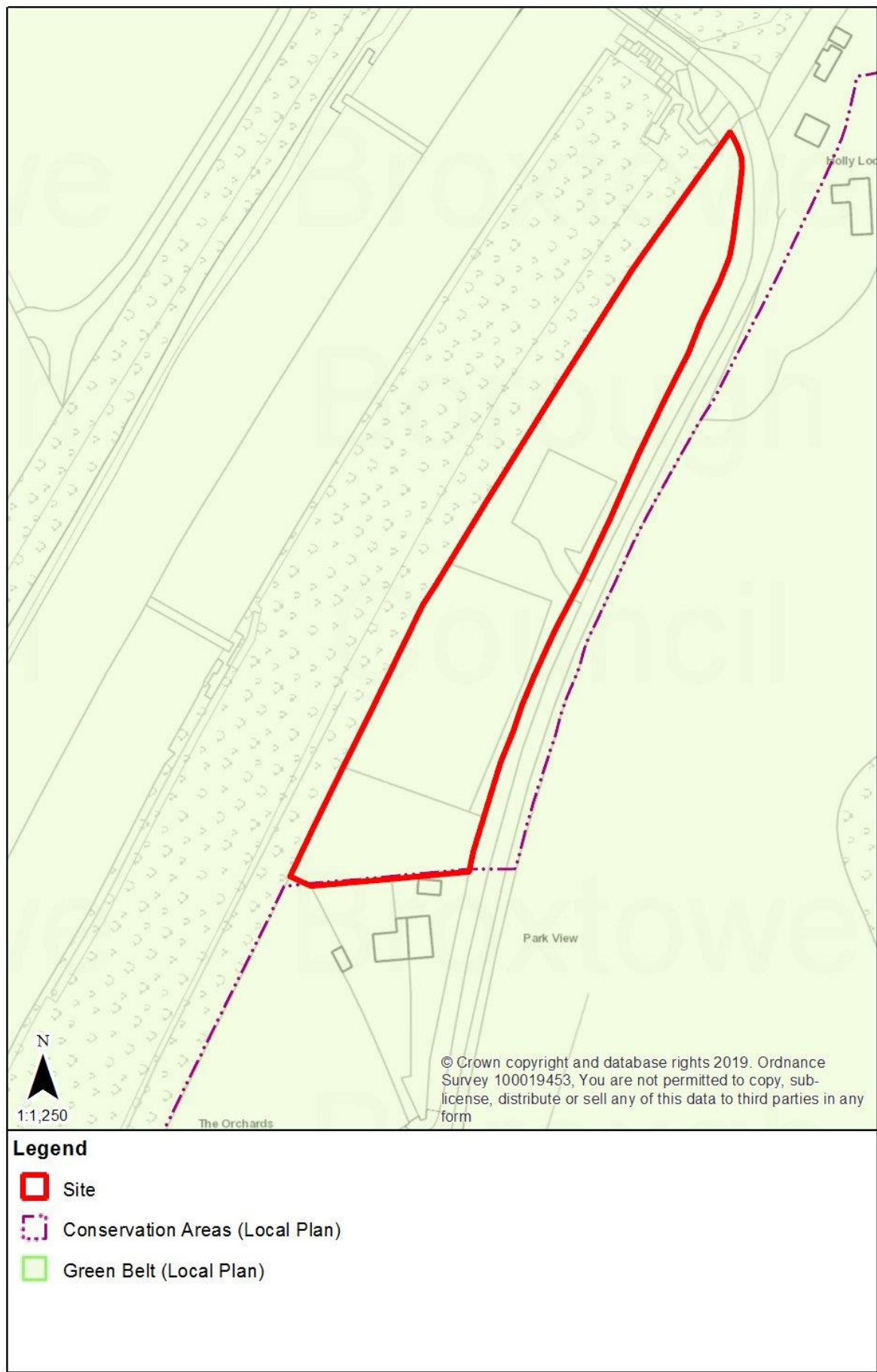
The Committee is asked to RESOLVE that planning permission be refused for the following reasons and that enforcement action be taken to remedy the breaches of planning control.

1. The site lies within the Nottinghamshire Green Belt where inappropriate development is by definition harmful and should not be approved except in very special circumstances. In the opinion of the Local Planning Authority the proposed change of use and enclosure for the keeping of wild cats represents inappropriate development and it is considered that very special circumstances have not been demonstrated to justify the granting of planning permission in this instance. The application is therefore not in accordance with Broxtowe Local Plan (2004) Policy E8, Draft Part 2 Local Plan (2018) Policy 8 and the NPPF paragraphs 143 – 146.
2. The enclosure by virtue of its size, design and appearance represents a substantial and robust structure that has a dominant impact on the application site and is out of keeping with the rural character of the surrounding area. Accordingly, the proposal is contrary to the aims of the Broxtowe Aligned Core Strategy (2014) Policy 10 and the Draft Part 2 Local Plan (2018) Policy 17.

NOTE TO APPLICANT

The Council has acted positively and proactively in the determination of this application by working to determine it within the agreed determination timescale.

INSERT PLAN/ MAP FROM BROXTOWE MAPS



Photographs



Photo taken from the north of the site looking at the enclosure.



Relationship between enclosure and east boundary of site.



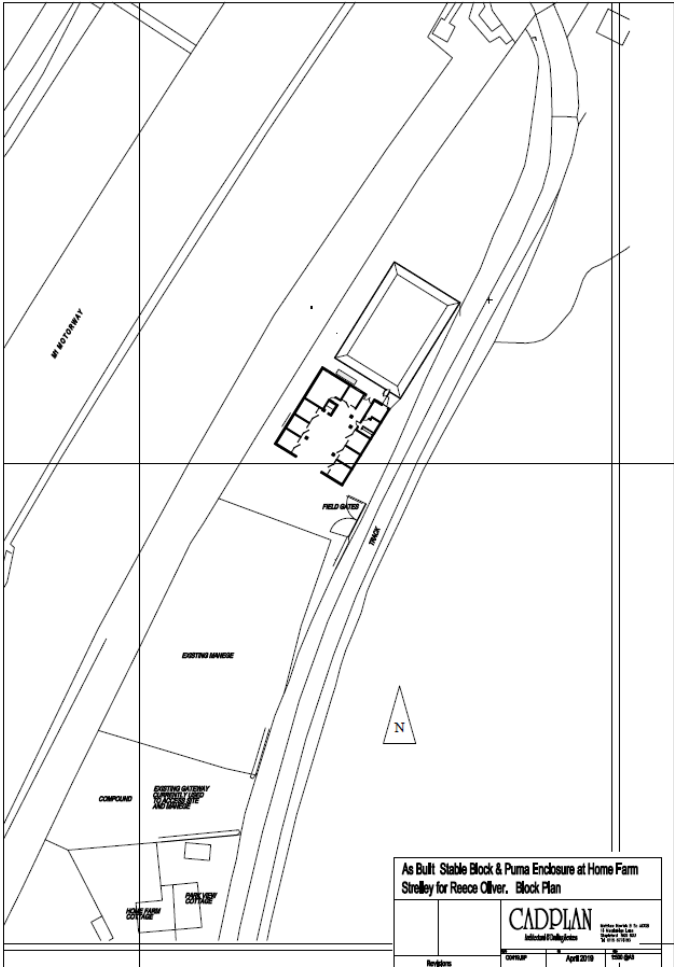
West elevation of enclosure.



West and south elevation of enclosure.

Plans (not to scale)

Block Plan



Elevation Plan

