



# **Charnwood Borough Council**

**Town and Country Planning Act 1990**

**Final Comments By**

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**Raising of ground levels within the  
floodplain.**

**at**

**Land adj Moor Lane, Loughborough,  
Leicestershire**

**Local Planning Authority Ref No. E/18/0476**

**Planning Inspectorate Ref No. APP/X2410/C/23/3322569**

This statement and associated documents can be viewed on the Planning Enforcement page of the Council's website [https://www.charnwood.gov.uk/pages/planning\\_enforcement](https://www.charnwood.gov.uk/pages/planning_enforcement) or in reception at the Council Offices but this is via appointment only by calling 01509 634570

## **1.0 Introduction**

- 1.1 This final comments statement should be read in conjunction with the appeal statement submitted by the Council.

## **2.0 The main point the Council wish to address.**

- 2.1 The appellant relies heavily upon the land levels survey that they state was carried out by BWB on 26<sup>th</sup> July 2018. The Council are unclear as to why the appellant felt it necessary to do a topographical survey at that time which was never used in the pre-application submission made in 2018 or the applications made in 2021 and 2022. In fact in the applications submitted in 2021 and 2022 Mr Timothy Andrew Shattock in his Statutory Declaration states "I carried out a topographical survey myself for the previous application" (which the Council understand from para 17 of Mr Shattock's S/D to be the 2021 application) and then because he was not confident with the results carried out in 2021 he carried out a further topographical survey in September 2022 (per para 17). If the appellant had a topographical survey from 2018 and they were confident that no works had occurred on the site, which they maintain, why would they feel the need to do further topographical surveys for the 2021 application and in September 2022 for the 2022 application?
- 2.2 In respect of the 2018 levels taken by BWB and those taken by Mr Timothy Andrew Shattock in 2022, which have been overlaid by the appellant on the Staniforth Architects plan, Reference E2391 P001 Rev A with the red points showing the 2022 levels this plan indicates that

the levels have further increased between 2018 and 2022. This plan shows the greatest increase in the southern and western areas of the site by up to 740mm. This is a significant increase in land levels and considered to be development for which planning permission is required. No application has been submitted for these works.

### **3.0 Other points the Council wish to address.**

3.1 Within the appellants hearing statement and within Mr Timothy Andrew Shattock's Statutory Declaration it is highlighted that the 2013 land levels plan the Council refer to is actually data collected in 2004. The Council accept that this is the case and the plan attached to the Enforcement Notice details the same data but also includes flood Zone information that was added in March 2013. For the avoidance of doubt a copy of the BWB Flood Risk Assessment March 2013 is attached as Appendix 1a which contains both the plans and Appendix A contains the Topographical Survey dated 06 May 2004 drawing No. 500.1 and Appendix D contains the Modelled Flood Extents drawing No. NTT2147/APPENDIX D Rev B.

3.2 The appellant highlights that the Council contacted them in 2017 regarding releveling works and the Council do not dispute this however the Council maintain works in changing the land levels on the Site continued through to between June and July 2019 and that is when the Council contend that the works were substantially complete on Site.

3.3 The appellant states that the November 2018 photographs show the

releveling works already undertaken and that further work on Site only related to the security bund and removal of spoil heap in spring/summer 2019. The Council would maintain that the June 2019 photographs clearly show that this is not the case. In addition to this the Council has uncovered email correspondence dated 24 May 2019 between Tim Shattock and Neal Chantrill, who was the Council's Compliance Technician at the time, regarding the North East Quadrant where Mr Timothy Andrew Shattock confirmed "The Developer will then tidy up the site and leave it in a levelled condition, in accordance with the section 106 agreement." And in another email that day stated "Yes, look forward to hearing from you once you have spoken with the EA Flooding Team but perhaps you should wait to do this until the works are complete?". Both emails would seem to suggest that the works to the Northeast Quadrant were not complete on 24 May 2019 and even continued after this date. The appellant in his appeal has repeatedly maintained that all works on site were completed by December 2015. A copy of this email exchange is attached as Appendix 1b to this statement.

- 3.4 The appellant contends that the bund was installed to prevent fly tipping, which the appellant indicates become a significant problem, but the Council have no record on their system of this Site being a problem site or it being a site where fly tipping had been reported to the Council. In Mr Roy David Coley's Statutory Declaration at paragraph 14 he indicates "in 2019 fly tipping was taking place which Charnwood Borough Council themselves had called these offices to complain about" but the Council

has no record of any such instance.

- 3.5 In respect of Mr Roy David Coley's Statutory Declaration at paragraph 14 he indicates "The EA had been on the site only a few months earlier with CBC planners looking at levels and seemed very happy for us to push material that was already on site up towards the road to form a security bund". The Council has no evidence of any such informal agreement and as the Council, at that time, were concerned with the levels on the site its highly unlikely that this was ever agreed as the bund would also have required planning permission.
- 3.6 In respect of Mr Roy David Coley's Statutory Declaration at paragraph 16 he indicates "On the 6<sup>th</sup> September 2019 I was asked to attend a meeting with the Enforcement Officers at Charnwood Borough Council to discuss "Public Park Land/Community Project" He attaches a copy of the Agenda for that meeting and highlights that there were no mention of levels". This was merely a proposed agenda. All parties included on the proposed agenda did not attend and from the appellants side only the developer and agent attended, with the landowner Mr Hugh Gallagher not in attendance therefore confirming that this was merely a proposed agenda. There are no notes for that meeting. The officer who attended this meeting is no longer with the Council however there is an email dated 03 October 2019 as evidence of the appellants attendance to that meeting, a copy of this is attached as Appendix 2a to this statement. The Council would like to highlight that even if the land levels were not discussed at this meeting the developer and agent

were fully aware from the various correspondence with them that they had received, that the land levels on the site continued to be an issue. As there were no notes of this meeting the Council is unable to comment as to whether the land levels were or were not discussed at this meeting.

3.7 In respect of Mr Timothy Andrew Shattock's Statutory Declaration at paragraph 3 he refers to a topographical survey undertaken by Greenhatch dated 6<sup>th</sup> April 2004 which is Exhibit TS2. This plan is dated 6<sup>th</sup> May 2004 and therefore this appears to be a typographical error. This plan also has a reference to Oakes Survey Services but not Greenhatch.

3.8 In respect of Mr Timothy Andrew Shattock's Statutory Declaration at paragraph 18 he states "I can confirm that the levelling works were all complete before the end of 2015 and certainly by July 2018". The email dated 24 May 2019 between Timothy Andrew Shattock and Neal Chantrill, who was the Council's Compliance Technician at the time (included in Appendix 2a of this statement), regarding the Northeast Quadrant puts into question the validity of this statement. The email correspondence would seem to suggest that the works to the North East Quadrant were not complete on 24 May 2019 and even continued after this date which would support the Council's stance on the matter. The email correspondence would seem to suggest that the works to the Northeast Quadrant were not complete on 24 May 2019 and continued after this date which would support the Council's stance on the matter.

#### **4.0 Conclusion**

4.1 The Council are of the opinion that the land level changes to the Site were not complete until sometime after June 2019 and therefore the works had not gained immunity and the Council were within the time limits to be able to serve the Enforcement Notice. The Council has put forward the relevant evidence to show this to be the case.



## **Appendices**

- 1a BWB Flood Risk Assessment March 2013
- 2a Email correspondence dated 24 May 2019 between Tim Shattock and  
Neal Chantrill
- 3a Email dated 03 October 2019 as evidence of the appellants  
attendance.