

9 Relugas Road EH9 2NE

Planning Application 20/04089/FUL

OBJECTION from Grange Association

10 November 2020

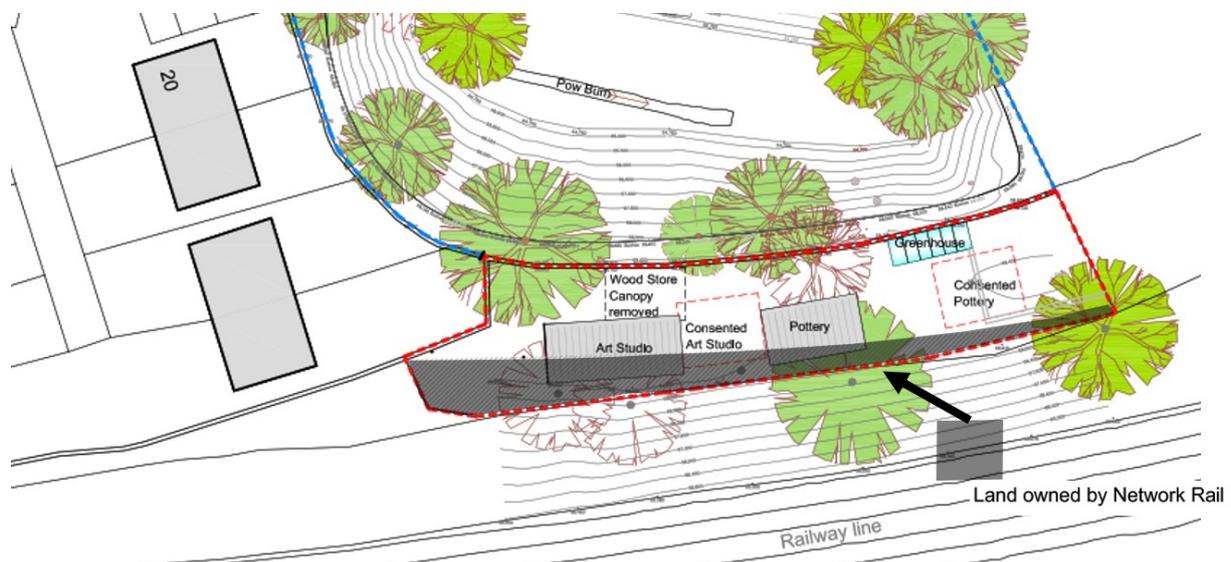
The Grange Association submits this objection, having reviewed application [20/04089/FUL](#) and consulted those of our members who stay nearby and who have already been affected by the development which this application seeks to regularise.

Our objections relate to:

1. Unclear scope of application – with implied retrospective planning consent;
2. Railway safety; and
3. Neighbour amenity.

0: Background and history

Planning permission was granted in March 2018 under [17/05586/FUL](#) for two sheds – a pottery and an art studio. Those sheds have not been installed but instead two larger cabins have been constructed partly on Network Rail land and closer to neighbours. This non-compliance is the subject of Enforcement request [19/00759/EOPDEV](#). The cabins are equipped with lighting, power, water and drainage but do not appear to have any Building Warrants. A Certificate of Lawfulness for one of the cabins, the Art Studio, was refused under [19/04789/CLE](#).



Plan of consented sheds ([17/05586/FUL](#)) and location of non-consented art studio and pottery, partly on unfenced Network Rail land, refused under [19/04789/CLE](#)

Our objection to previous applications has been that the applicant seeks to expand the scale of the consented buildings beyond what could reasonably be regarded as ‘ancillary buildings’ or sheds to fully habitable cabins that damage the amenity for neighbours.



Proximity of art studio to neighbour (looking east)

1. Unclear scope of application – with implied retrospective planning consent

We are anxious to ensure that the assessment of this current application, for change of use of a small piece of land, is not used as a proxy for deemed planning consent for the two cabins that have been erected on the site, apparently without permission of either the landowner or the planning authorities. We remain unclear whether the applicant is seeking to gain planning permission for structures from the current application for change of use of land.

The current application includes drawing 2918/L(-) 03 Rev. B, exhibited as “02_Proposed Site Plan-4711129.pdf” on the Council’s planning portal. This drawing shows the two unauthorised cabins. We therefore request that this drawing be removed explicitly from any determination which the Council may make concerning this application for change of use. If a site plan is required, the drawing “02 EXISTING AND PROPOSED SITE PLAN” from [17/05586/FUL](#) should be substituted which shows consented structures.

2. Railway safety

The application includes no evidence that Network Rail has consented to make the land in question available to the applicant. In the absence of such evidence, it must be assumed that the land cannot be used or worked on without trespassing on the railway, which is not just a civil matter but a subject of the Railway Byelaws, and that trespass on this railway land puts at risk both the trespasser and the railway user.

The construction of one of the cabins is shown in the picture on the right from September 2019, demonstrating the unfenced land and its proximity to the live railway at the top of a cutting. It also shows the recent vegetation clearance.



Art studio under construction above live railway – Sep-2019

The current application includes a proposal to install fencing along the edge of the cutting, which is steep and difficult to access. The application seeks permission to erect a 1.8m high timber fence. Such work on railway land could only be performed by staff trained and supervised in railway safety to manage the risk of materials being dropped or personnel falling onto the live railway below.

In the absence of confirmation from Network Rail that it is willing to divest this land to the applicant, and that it is willing for the applicant to manage the installation of the fencing at the new boundary, it must be assumed that such fencing work must be managed by Network Rail as the client, using its authorised trained contractors, and that planning permission for such a fence should be afforded to Network Rail, if requested, not to the present applicant.

Transport safety is a material consideration for planning applications. In the same way that a householder seeking permission to build out and fence beyond his property onto the embankment or verge of the Edinburgh City Bypass, where pedestrians are prohibited, would be refused permission on grounds of highway safety, so this application should be refused on grounds of railway safety.

3. Neighbour amenity

In our objection to the now withdrawn application [20/02259/FUL](#) we set out at length the harm to the amenity of neighbours from the unauthorised cabins. [That objection](#) remains available on our website. In summary, we noted the:

- Noise and disturbance;
- Visual intrusion from the large art studio's proximity to neighbours' gardens; and
- Loss of privacy and overlooking.

The proposed change of use of the land in question is required to facilitate its use for development and construction, which would perpetuate the harms above.

We request that this application be refused.

**Grange Association
10 November 2020**