

Report of the Chief Executive

APPLICATION NUMBER:	20/00541/FUL
LOCATION:	42 – 44 Brookhill Leys Road Eastwood Nottingham NG16 3HZ
PROPOSAL:	CONSTRUCT 28 DWELLINGS

This item is brought to the Committee as it is a major application and there are issues in respect of viability.

1 Executive Summary

- 1.1 This application seeks planning permission for the construction of 28 dwellings and associated access road.
- 1.2 The application site was previously occupied by a variety of industrial buildings used in association with Belwood Foods, who have since relocated. These have now been demolished and removed from site following the granting of Prior Notification for demolition. A vacant detached two storey dwelling remains on part of the site fronting onto Newmanleys Road which will also be demolished as part of this application.
- 1.3 The benefits of the proposal are that the residential development would return a vacant brownfield site back into use and would also provide a 100% affordable housing scheme. The proposed dwellings are not considered to be harmful to the character of the surrounding area, or have an unacceptable impact on neighbouring amenity or highway safety.
- 1.4 The committee is asked to resolve that planning permission be granted subject to the conditions outlined in the appendix, and to the prior signing of a Section 106 Agreement.

Appendix 1

1 Details of the Application

- 1.1 This application seeks consent for the construction of 28 affordable dwellings on land formerly occupied by number a variety of industrial buildings and a dwelling. A central access road is proposed along with the mixture of 16 x 2 bed two storey dwellings and 12 x 3 bed two storey dwellings.

2 Site and surroundings

- 2.1 The site is predominantly surrounded by residential dwellings directly opposite to the north on Brookhill Leys Road, to the west on The Sycamores and to the east on Newmanleys Road. Land to the rear of the site is currently being built out for residential purposes by St Mowden Homes and directly opposite this development to the south east by Persimmon Homes.

3 Relevant Planning History

- 3.1 Prior to 2018, there has been no relevant planning history for the site. In 2019 outline planning permission was granted under reference number 18/00810/OUT with some matters reserved for residential development.
- 3.2 In 2020 Prior notification was granted under reference number 20/00367/DEM for the demolition of the previous industrial buildings which occupied the site.

4 Relevant Policies and Guidance4.1 **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 1 – Climate change
- Policy 2 – The spatial strategy
- Policy 8 – Housing mix and choice
- Policy 10 – Design and enhancing local identity
- Policy 14 – Managing travel demand
- Policy 16 – Green infrastructure, parks and open spaces
- Policy 19 – Developer contributions

4.2 **Part 2 Local Plan 2019**

- 4.2.1 The Council adopted the Part 2 Local Plan on 16 October 2019.

- Policy 15 – Housing size, mix and choice
- Policy 17 – Place-making, design and amenity
- Policy 19: Pollution, Hazardous Substances and Ground Conditions
- Policy 20: Air Quality
- Policy 21: Unstable Land

- Policy 32 – Developer Contributions

4.3 National Planning Policy Framework (NPPF) 2019:

4.3.1 The National Planning Policy Framework (NPPF) 2019, outlines a presumption in favour of sustainable development, that planning should be plan-led, decisions should be approached in a positive and creative way and high quality design should be sought.

- Section 2 – Achieving Sustainable Development.
- Section 4 – Decision-making.
- Section 5 – Delivering a sufficient supply of homes.
- Section 8 – Promoting healthy and safe communities.
- Section 9 – Promoting sustainable transport.
- Section 11 – Making effective use of land.
- Section 12 – Achieving well-designed places.

5 Consultations

5.1 **Environmental Health** – No objections subject to a condition relating to all necessary remedial measures having been completed and certified to the satisfaction of the LPA.

5.2 **The Council’s Parks and Environment Manager** confirms that full developer contributions would be sought for open space.

5.3 **Highway Authority** - Originally requested amendments as the proposed layout failed to comply with standards set out in the 6 Council’s Design Guide. Amended plans were submitted and the Highway Authority offer no objections to the proposed development subject to conditions.

5.4 **Lead Local Flood Authority** – No objections based on the information submitted.

5.5 **The Coal Authority** – Raise no objections subject to the inclusion of an informative note to be included within the decision notice regarding the Coal Authority’s standing advice.

5.6 **Nottingham University Hospitals NHS Trust** – Request contributions to ensure health services are maintained.

5.7 **NHS Nottingham West CCG** – Request contributions to ensure health services are maintained.

5.8 **Nottinghamshire County Council** - Request contributions via a S106 Agreement for bus stop improvements and education contributions.

- 5.9 **Cadent Gas** – Raise no objections subject to an informative note relating to the developer's responsibilities and obligations regarding gas service pipes and related apparatus.
- 5.10 **Nottinghamshire Police** – Raise no objections and advise that there is no reason to suggest the development will be of detriment to existing properties and the layout of the dwellings is well-designed from a security aspect.
- 5.11 Neighbours were consulted on the application along with the posting of two site notices around the site. During the course of the application, two letters were received raising objections in respect of loss of privacy.
- 5.12 **Housing Services and Strategy Manager** – Raises no objections and welcomes the development of new affordable housing in Eastwood.

6 Assessment

6.1 The main issues relating to this application are the principle of development, design and the impact upon visual amenity of the area, residential amenity, highway safety and viability. These are discussed in turn as follows:

6.2 **Principle**

6.2.1 The application site is located in a sustainable urban, residential area within Eastwood. The site is currently vacant following the recent demolition of the industrial buildings which previously occupied the site. The principle of the development of the site for residential purposes is considered acceptable, subject to the consideration of other material planning considerations.

6.3 **Design**

6.3.1 The housing stock in Eastwood is generally mixed in character with the older housing stock largely being terraced properties and newer developments consisting of semi – detached and detached properties. Directly opposite the site and to either side of the access road on Brookhill Leys Road there is a mix of detached and semi-detached two storey dwellings. To the west on The Sycamores these dwellings are detached and single storey in nature. Immediately to the east on Newmanleys Road there are two storey detached dwellings.

6.3.2 The scheme layout has been designed with plots addressing the frontage of Brookhill Leys Road and Newmanleys Road. To the east of the access road off Brookhill Leys Road leading into the site plots 1 – 5 will consist of a row of two storey terraced dwellings. To the east of the access road two semi-detached dwellings are proposed plots 6 - 7. These properties will consist of gable ends with doors and window openings to the front and the side elevations addressing both the street frontage of Brookhill Leys Road and the new access road. Feature gable are also proposed to the front of plots 1, 5 and 7 to add a feature to the front elevations of these properties and break up to brick work. Parking is proposed to the front of the plots with the provision of landscaping to address the street scene of Newmanleys Road. Gardens are proposed to the rear these plots facing into the site.

- 6.3.3 Within the site the remaining plots 8 – 25 have been well spaced out in the form of semi – detached dwellings and rows of three/four terraced blocks. Parking spaces are proposed to either the front or side of the plots along with the provision of landscaping and garden areas to the rear. The design of the plots are similar to plots 1 – 7 with gable ends and gable features to the front. In addition, plots 26 – 28 are to be situated fronting onto Newmaleys Road and again of similar design and layout to the previously mentioned plots in terms of driveways, landscaping and garden areas.
- 6.3.4 The house types are relatively simple and modest in their form and massing, with a mixture of gable ends to the front of the various plots and the use of different materials to help break up the brickwork and add interest to the different elevations of the properties. Information submitted during the processing of the application indicates the use of a mix of Wienerberger Tabasco Red and Sunset Red multi bricks and a mixture of Russell Lothian slate grey and cottage red tiles. The use of these materials is considered acceptable given the existing palette of materials used in the surrounding area.
- 6.3.5 In respect of boundary treatments, the boundaries which adjoin the access road into the site and the plots which have gardens backing onto the road within the site will consist of a 1.8m high brick screened wall. Between each individual plot 1.8m high close boarded timber fencing will be provided. Existing boundary treatments surrounding the site serving existing dwellings will remain.
- 6.3.6 It is not considered that the proposal will have a significant detrimental impact upon the visual amenity of the area or the character of the street scene.

6.4 Amenity

- 6.4.1 Objections have been received from neighbouring properties in respect of loss of privacy.
- 6.4.2 To the front of the site there are 7 plots proposed. These plots will be set back from the street frontage of Brookhill Leys Road by approximately 7m. Directly opposite the site there are residential dwellings set back from the main road of Brookhill Leys Road, with a separation distance of approximately 26m. Along the frontage of these properties there are established boundary treatments in the form of walls/hedgerows. The proposal is not considered to have an adverse impact upon the residential amenity of these neighbouring properties in respect of overlooking, overbearing or noise impacts due to the separation distances.
- 6.4.3 To the east of the site fronting Brookhill Leys Road there are 4 two storey dwellings numbers 34 – 40 which are set back from the main road and are served by long linear gardens. Plot 7 will be set back from the front of number 40, with a gap of 1.9m between this existing property and the front of plot 7 and this property and will extend further back by approximately 3m of number 40, with the boundary tapering away to a distance of 3.8m. There is currently a flat roof garage to the side of number 40, with the only side facing window being a landing window. Along the boundary there is an existing 2 m high wall which remains. The only windows within the side facing elevation of plot 7 are a small low level living

room window and a small bathroom window. It is not considered there will be any overlooking or overbearing issues upon the residential amenity of this property.

- 6.4.4 As a general rule it is usually considered that gardens serving new dwellings should have a minimum depth of 10m, not only because of the desire to create an adequate separation distance between neighbouring properties (of particular relevance here due to level differences), but also to ensure that there is an acceptable amount of usable amenity space.
- 6.4.5 Directly to the west of the application site there are existing residential dwellings located on The Sycamores. Number 1 The Sycamores is situated backing onto the rear gardens of numbers 34 – 40 Brookhill Leys Road and it is considered there is an adequate separation distance between plots 8 – 9 in excess of approximately 30m to mitigate against any potential overlooking issues upon this property. Whilst the gardens to numbers 2 and 3 The Sycamores back onto the garden areas of plots 12 – 14, these plots are served by garden depths in excess of 11.5m. In addition, numbers 2 and 3 are also served by long depths of approximately 19m in depth. It is not considered there will be any significant detrimental impact upon these properties in terms of overlooking or overbearing issues.
- 6.4.6 Within the street scene of Newmanleys Road there are existing two storey dwellings, which again are served by long depths in excess of 20m. In addition, plot 21 is set in from the boundary by 6.5m. In terms of the relationship of the proposed dwellings to these properties, the side elevation of Plot 21 will be facing the rear gardens and elevations of these properties, with the only side facing windows proposed being a small low level lounge window and first floor bathroom window. Plots 26 – 28 are proposed to be located to the side of number 6 Newmanleys Road, with a separation distance of 1.5m tapering in to the rear to 1m. Whilst there are windows in the side elevation of number 6, there is already a dwelling sited within this and again the only windows proposed in the side facing elevation are a small lounge window at ground floor level and small bathroom window. It is not considered there will be any significant detrimental impact upon these properties in terms of overlooking or overbearing impacts.
- 6.4.7 To the rear of the site there is a new residential development currently being built out on the site by St Mowden Homes. Whilst some of these dwellings are to be located overlooking the application site, careful consideration has been given to the layout of the development with only plots 14, 15 and 25 side facing onto these dwellings. Along the boundary there is a new 1.8m high close boarded timber fence. Again, careful consideration has been given in relation to the siting of side facing windows with only the previously mentioned small windows at ground and first floor level serving a lounge and bathroom. It is not considered there will be any significant detrimental impact upon the future occupiers of these properties in terms of overlooking or overbearing impacts.
- 6.4.8 The impact upon all other adjacent properties is considered acceptable due to the siting and distance of the proposed dwellings to the neighbouring properties.

6.5 Access

6.5.1 Access into the site is proposed via a new driveway leading into the site opposite Addison Villas. Adequate parking provision is proposed for each of the dwellings, with 2 bedroom plots being served by 1 space and 3 bedroom plots being served by 2 spaces. The Highway Authority offer no objections to the proposal subject to conditions relating to the closing of existing dropped kerb openings on Newmanleys Road, driveways being surfaced in a bound material and details of wheel washing facilities. It is considered there are no highway safety issues relating to this application.

6.6 Developer Contributions

6.6.1 The application constitutes a major scheme and Policy 19 from the Aligned Core Strategies requires that a planning obligation is sought from the developer. In line with the NPPF any planning obligation should meet the tests of being necessary in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. Paragraph 57 of the NPPF states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.

6.6.2 Full open space contributions of £41,235.04 have been requested for the provision of capital and maintenance contributions to fund improvements to Coronation Park or Hall Park.

6.6.3 Nottinghamshire County Council have requested contributions of £3,00.00 towards bus stop improvements. A further request of £121,255 as also been requested towards secondary education provision in the Broxtowe North Planning Area.

6.6.4 A request has been made by Nottingham and Nottinghamshire NHS Clinical Commissioning Group for a contribution of £14,235.04 towards new surgery projects in the area.

6.6.5 A request has been made from Nottingham University Hospital NHS Trust for a contribution of £27,300.00 which would be used directly to provide additional health care services to meet patient demand. However, as the site is providing an 100% affordable housing scheme this request cannot be justified, since the development is required in order to meet a housing need figure included in the Development Plan, which has been consulted upon with relevant health providers at the time of production, and which was subject to Public Examination and as such will not be considered necessary in order to make the development otherwise S106 compliant.

- 6.6.6 A viability appraisal has been submitted on behalf of the applicant and this concludes that the development would not be viable as the scheme is to be 100% affordable housing if all of the above contributions were to be paid. An independent assessor has assessed the viability appraisal and concludes that the development is capable of providing up to £48,000 of Section 106 Contributions. As such, it is proposed this figure will be used to meet the requirements of the Primary Health Care contributions of 14,088.75, with the remainder being split equally between Open Space and Education at an amount of £16,955.63 each.
- 6.6.7 Should a 3rd of each of the above mentioned financial contributions be requested, this would equate to £13,745.01 towards Public Open Space, £40,418.33 towards Education and £4,745.01 towards the NHS, totalling £58,908.35, which would be greater than the viability appraisal states would be viable.

6.7 **Other Issues**

- 6.7.1 Whilst Nottinghamshire County Council as the Lead Local Flood Authority (LLFA) has reviewed the application and based on the submitted Drainage Strategy raise no objections, a condition is requested for the submission of a detailed surface water drainage scheme based on the principles set forward by the approved Drainage Strategy.
- 6.7.2 In support of the application, a Phase I and Phase II Geo-Environmental Assessment has been submitted given the previous industrial use of the site. Whilst the Environmental Officer raises no objections, a pre-commencement condition has been requested to agree how soil contamination and gas protections requirements will be mitigated against.
- 6.7.3 In view of the above request for pre-commencement conditions, the applicant's agent has agreed to the conditions to be attached to the decision notice.

7 Planning Balance

- 7.1 On balance this scheme would enable the provision of 100% affordable housing development of 28 dwellings to be constructed on a currently vacant site, which would both enhance the environmental quality of the area, and reduce pressure for housing development elsewhere. The scheme complements the existing built form of the area, without impinging on amenity of those residents currently bordering the site. There are no significant constraints to developing this site that cannot be addressed by conditions, and on balance therefore, it is considered the scheme is acceptable.

8 Conclusion

- 8.1 Having regard to all material considerations, the proposed development is required to assist in meeting the borough's overall housing requirement. As the site is located in the main built-up area, this carries significant weight as the location is sustainable. Therefore, the proposal is considered to be in accordance with the relevant local and national policy guidance and there are no material considerations which would warrant a decision being taken at variance to this. It is recommended that the application be approved subject to conditions and the

completed S106 agreement to secure the delivery of an 100% affordable housing scheme, open space, education and NHS contributions.

<u>Recommendation</u>	
<p>The Committee is asked to RESOLVE that planning permission be granted subject to the following conditions and to the prior signing of a Section 106 Agreement.</p>	
1.	<p>The development hereby permitted shall be commenced before the expiration of three years beginning with the date of this permission.</p> <p><i>Reason: To comply with S91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.</i></p>
2.	<p>The development hereby permitted shall be carried out in accordance with drawing(s) numbered Site Location Plan, 1: 1250, Plots 1 – 5 Elevations/Floor Plans, DB/RB/20/21/03, Plots 6 – 9 Elevations/Floor Plans, DB/RB/20/21/04 and Plots 12 – 14 Elevations/Floor Plans, DB/RB/20/21/06 received by the Local Planning Authority on 13 August 2020, External Materials Specification received by the Local Planning Authority on 08 December 2020, Site Block Plan 1: 500, DB/RB/20/21/02D, Plots 19 – 21 and 26 – 28 Elevations/Floor Plans, DB/RB/20/21/08 and Plots 22 – 25 Elevations and Floor Plans, DB/RB/20/21/05A received by the Local Planning Authority on 17 November 2020.</p> <p><i>Reason: For the avoidance of doubt.</i></p>
3.	<p>No part of the development hereby approved shall commence until a detailed surface water drainage scheme based on the principles set forward by the approved Drainage Strategy has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall include:</p> <ul style="list-style-type: none"> ● Provision of surface water run-off attenuation storage in accordance with 'Science Report SCO30219 Rainfall Management for Developments' and the approved FRA, ● Evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term. <p><i>Reason: A detailed surface water management plan is required to ensure that the development is in accordance with NPPF and local planning policies. It should be ensured that all major</i></p>

	<i>developments have sufficient surface water management, are not at increased risk of flooding and do not increase flood risk off-site.</i>
4.	No part of the development hereby permitted shall be brought into use until the off-site footway works as shown for indicative purposes only on the drawing entitled 'Proposed Site Block Plan', drawing no. DB/RB/20/21/02 D have been provided. <i>Reason: In the interest of highway safety.</i>
5.	The approved landscaping identified on drawing number DB/RB/20/21/02D received 30 September 2020 shall be carried out not later than the first planting season following the substantial completion of the development or occupation of the building(s), whichever is the sooner and any trees or plants which, within a period of 5 years, die, are removed or have become seriously damaged or diseased shall be replaced in the next planting season with ones of similar size and species to the satisfaction of the Local Planning Authority, unless written consent has been obtained from the Local Planning Authority for a variation. <i>Reason: To ensure the development presents a more pleasant appearance in the locality and in accordance with Policy 17 of the Part 2 Local Plan (2019).</i>
6.	No development hereby permitted shall commence until wheel washing facilities have been installed on the site. The wheel washing facilities shall be maintained in working order at all times and shall be used by any vehicle carrying mud, dirt or other debris on its wheels before leaving the site so that no mud, dirt or other debris is discharged or carried on to a public road. <i>Reason: In the interest of highway safety.</i>
7.	No part of the development hereby permitted shall not be brought into use until the drive and parking area has been surfaced in a hard bound material (not loose gravel), so has to prevent the discharge of surface water and materials therefrom onto the public highway and shall be retained thereafter. <i>Reason: To ensure deleterious material/surface water from the site is not deposited on the public highway causing dangers to road users.</i>
8.	No part of the development hereby permitted shall be brought into use until the dropped kerb accesses on Newmanlays Road that have been made redundant as a consequence of this permission are permanently closed and reinstated to footway. <i>Reason: In the interests of Highway safety.</i>
9.	No part of the development hereby approved shall be commenced until: a) A Remedial Method Statement has been submitted to and approved in writing by the Local Planning Authority. The report

	<p>shall include details of any necessary remedial measures to be taken to address any contamination or other identified problems.</p> <p>b) No building to be erected pursuant to this permission shall be occupied or brought into use until:-</p> <p>(i) All necessary remedial measures have been completed in accordance with details approved in writing by the local planning authority; and</p> <p>(ii) It has been certified to the satisfaction of the local planning authority that necessary remedial measures have been implemented in full and that they have rendered the site free from risk to human health from the contaminants identified.</p> <p><i>Reason: In the interest of public health and safety.</i></p>
	<p>NOTES TO APPLICANT</p>
<p>1.</p>	<p>The Council has acted positively and proactively in the determination of this application, through an early visit to the site to appreciate whether any amendments needed to be sought and thus afford sufficient time to negotiate these should it have been the case.</p>
<p>2.</p>	<p>The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.</p> <p>Further information is also available on the Coal Authority website at:</p> <p>www.gov.uk/government/organisations/the-coal-authority</p>
<p>3.</p>	<p>The deposit of mud or other items on the public highway, and/or the discharge of water onto the public highway are offences under Sections 149 and 151, Highways Act 1980. The applicant, any contractors, and the owner / occupier of the land must therefore ensure that nothing is deposited on the highway, nor that any soil or refuse etc is washed onto the highway, from the site. Failure to prevent this may force the Highway Authority to take both practical and legal action (which may include prosecution) against the applicant / contractors / the owner or occupier of the land. [Where the development site may be accessed by a significant number of vehicles or may be particularly susceptible to material ‘tracking’ off site onto the highway, details of wheel-washing facilities must be provided to and approved by the Highway Authority.</p> <p>The applicant should note that notwithstanding any planning</p>

	<p>permission that if any highway forming part of the development is to be adopted by the Highways Authority. The new roads and any highway drainage will be required to comply with the Nottinghamshire County Council’s current highway design guidance and specification for roadworks.</p> <p>The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the Highway Authority with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 and S278 Agreement can take some time to complete. Therefore, it is recommended that the developer contact the Highway Authority as early as possible.</p> <p>It is strongly recommended that the developer contact the Highway Authority at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance, and it is <u>essential</u> that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council before any work commences on site. Please contact hdc.south@nottsc.gov.uk for details.</p> <p>In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact hdc.south@nottsc.gov.uk for details.</p>
4.	<p>Given the proximity of the site to other residential properties, it is advised that contractors limit noisy works to between 08.00 and 18.00 hours Monday to Friday, 08.00 and 13.00 hours on Saturdays and no noisy works on Sundays and Bank Holidays. There should also be no bonfires on site at any time.</p>
5.	<p>Burning of commercial waste is a prosecutable offence. It also causes unnecessary nuisance to those in the locality. All waste should be removed by an appropriately licensed carrier.</p>
6.	<p>There is an associated S106 legal agreement with this development dated, and this decision should be read contemporaneously with such.</p>



Legend

-  Site Outline
-  Local Wildlife Site

Photographs

View from the east within Brookhill Leys Road.



View from the west within Brookhill Leys Road.



Views of the site.



West boundary of site with No:40 Brookhill Leys Road.



East boundary with properties located on Newmanleys Road.



Existing dwelling to be demolished on Newmanleys Road to be replaced by row of three terraced properties.



Residential developments to the rear of the site.



