

## Report of the Director of Legal and Planning Services

**15/00010/FUL  
CONSTRUCT 67 No. DWELLINGS (REVISED SCHEME – 92/00730/FUL)  
LAND OFF ACORN AVENUE GILTbrook NOTTINGHAM NG16 2UF**

The planning application is also linked to the application (15/00018/REG3) to provide an 'enhanced drainage/biodiversity attenuation storage' as it forms part of the drainage/flooding management plan for the development.

1 Details of the application

- 1.1 The application seeks planning permission for the construction of 67 dwellings at land adjacent to an existing residential development within the larger Smithurst Road development, Giltbrook. This is a resubmission of an application granted permission in 1993 for 107 houses and garages (reference 92/00730/FUL). This permission was implemented soon after the granting of planning permission, with the developer building 44 of the properties which have subsequently been sold and occupied. This permission is therefore extant and can be completed at any point without the need for any further planning permission. The developers also obtained the Building Regulations approval required to build all the properties and as such could build the remaining houses without any further approvals being required by the Council.
- 1.2 At the time the existing houses were constructed the developer, Langridge Homes Ltd, also constructed the connecting access road which joins up Acorn Avenue, Alton Drive and partially completed Filbert Drive, the latter two being accessed from Acorn Avenue.
- 1.3 This current application relates to the remaining 63 dwellings approved under this previous permission, plus an additional four dwellings and consists predominantly of detached four and five bedroom properties, all of which have either detached or integral garages. The differences between the approved plans and this current application relate to minor alterations to the layout, specifically to the south-eastern corner of the site and amendments to the house types and design which have also led to the ability to build the four extra houses proposed.

2 Site and surroundings

- 2.1 The site comprises approximately 2.39 hectares of land within an existing residential area which is currently grassed and has no buildings on it. As this site relates to an extant permission for housing, some works have taken place with the connecting access road which joins the two sections of Acorn Avenue having been completed. Work was also commenced on two roads leading from Acorn Avenue (Alton Drive and Filbert Drive).



2.2 It is largely bordered by residential properties to the northern, eastern and southern boundaries. The properties to the south and south east of the site consist of the 44 dwellings constructed under the extant planning permission (92/00730/FUL) by the applicant. These, together with the properties immediately to the north and east, consist largely of detached two storey dwellings with a small number of semi-detached properties. To the west of the site there is an area of open land which is allocated in the Local Plan (2004) as part of a 'Greenway' which runs through Giltbrook Farm from Portland Road and is also allocated for the provision of informal open space.

2.3 A closed barrier gate to the north and fencing to the south currently restrict access and through traffic. An existing footpath runs to the west, from which access can be gained into the application site. A public footpath which connects the two parts of Acorn Avenue runs behind properties on Robina Drive also adjoins the site to the east, where there is a group Tree Preservation Order at the south-eastern tip of the footpath.



2.4 There is a significant change in levels across the site, which slopes upwards from west to east and from south to north. The properties on Robina Drive are 5-6m higher than the properties to the west on Thorn Drive and the properties at one end of Acorn Avenue (numbers 51 and 58) are 3-4m higher than those to the south.

### 3 Relevant site history

3.1 In 1981 planning permission was granted for development consisting of 'Use site for residential, industrial, shops and school development' (79/00666/OUT). This was further supplemented by the granting of outline planning permission for residential, industrial, shopping and school development as part of a comprehensive scheme for the whole of the Giltbrook Farm Estate (81/00566/OUT). These applications established the principle of residential development on the site which has subsequently been developed in a phased manner since this time.

3.2 Planning permission for 107 houses with garages and associated works within a section of this larger site was granted in 1993 (92/00730/FUL). As stated in section 1 of this report, part of this development has been built out and as such the permission is extant and could be built as approved at any point in the future without the need for any planning permission.

3.3 In 2006 planning permission (06/00967/FUL) was refused for the substitution of house types for 63 dwellings previously approved and alterations to the internal road layout. The reasons for refusal stated:

*1 – The proposed residential development provides a low-density scheme, insufficient to meet the requirements of PPS3 and Policy H6 of the Broxtowe Local Plan and represents an inefficient use of land. In addition the development proposes fail to provide a satisfactory variety of housing types contrary to Policy H3 of the Broxtowe Local Plan (2004).*

*2 – The applicant has failed to provide the necessary information on the level changes of the site and subsequently there is a lack of detail to assess the impact of the proposal on the occupiers of the neighbouring properties and the amenity of occupiers of future residents within the site. The proposal is accordingly contrary to local plan policy H7.*

### 4 Policy Context

#### 4.1 **National policy**

4.1.1 The National Planning Policy Framework (NPPF) (March 2012) contains a general presumption in favour of sustainable development whereby planning permission should be granted unless permitting the development significantly and demonstrably outweighs the benefits. It outlines 12 core planning principles which should underpin the planning system, including that planning should be plan-led, that high quality design and a good standard of amenity for existing and future occupants should be secured, full account should be taken of flood risk, the natural environment should be conserved and enhanced, developments should be located in sustainable locations and effective use of brownfield land should be made. It also outlines that the Government's key housing objective is to increase significantly the delivery of new homes, and states that there should be a wide choice of high quality homes within safe and accessible environments. Applicants are encouraged to work with the local community to achieve this aim.

- 4.1.2 A greater emphasis is placed on economic considerations and the NPPF advises that planning authorities should take account of market signals, such as land prices and housing affordability. Where a need for affordable housing has been identified, the NPPF advises that this should be provided on site unless off-site provision or a financial contribution can be robustly justified.
- 4.1.3 In relation to assessing the highway impacts of a proposal, the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts are severe.
- 4.1.4 In regard to the provision of housing, the Framework states that applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Paragraph 47 of the NPPF states that local planning authorities should set out their own approach for housing density to reflect local circumstances.
- 4.1.5 Paragraph 94 of the NPPF states that local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations. Paragraph 99 states that new development should be planned to avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures.
- 4.1.6 Paragraph 100 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.
- 4.1.7 Paragraph 103 outlines how, when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that:
- within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
  - development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning and it gives priority to the use of sustainable drainage systems.
- 4.1.8 The NPPF advises that impacts on biodiversity should be minimised and that, if significant harm cannot be avoided, adequately mitigated or, as a last resort, compensated for, planning permission should be refused.
- 4.1.9 Paragraphs 203 – 206 of the NPPF advise on planning obligations and states that obligations must be necessary to make the development acceptable in planning

terms, be directly related to the development, fairly and reasonably related in terms of scale and kind to the development. In addition, paragraph 205 of the NPPF advises that where seeking obligations, local authorities need to take into account changes in market conditions over time and be flexible so as to prevent development stalling on such matters.

## **4.2 Broxtowe Aligned Core Strategy**

- 4.2.1 The Council adopted the Core Strategy on 17 September 2014 and the overall strategy of this document is “urban concentration with regeneration”. Due weight should now be given to this document.
- 4.2.2 ‘Policy 1: Climate Change’ sets out how climate change will be tackled and adapted to and sets requirements for sustainable design of buildings. It states that development should demonstrate how carbon dioxide emissions have been minimised. It states that development will be supported that adopts the precautionary principle, that avoids areas of current and future flood risk which, individually or cumulatively, does not increase the risk of flooding elsewhere and, where possible, reduces flood risk. It replicates the approach to development in flood zones outlined in the NPPF and seeks the inclusion of Sustainable Urban Drainage systems within new development where viable and technically feasible.
- 4.2.3 ‘Policy 2: The Spatial Strategy’ sets the overarching strategy for how growth in Greater Nottingham will be accommodated and distributed. It sets the required number of homes for Greater Nottingham (GN) between 2011 and 2028 (6150 in the Broxtowe Borough part of GN, of which 3800 are in or adjoining the existing built up area of Nottingham and up to 1,250 are in or adjoining the Eastwood area which includes Giltbrook and Newthorpe) and outlines a settlement hierarchy.
- 4.2.4 ‘Policy 8: Housing Mix and Choice’ sets out the approach to ensuring that new housing development includes an appropriate mix of housing types, sizes and tenures. It sets out the approach to affordable housing and establishes a 30 per cent target for Broxtowe Borough.
- 4.2.5 ‘Policy 10: Design and Enhancing Local Identity’ sets design and layout principles to be applied to new development and looks to ensure that valued local characteristics are reinforced.
- 4.2.6 ‘Policy 16: Green Infrastructure, Parks and Open Spaces’ sets out a strategic approach to the provision of new Green Infrastructure.
- 4.2.7 ‘Policy 17: Biodiversity’ sets out the approach to biodiversity and how development affecting biodiversity assets should be considered. It states that designated sites will be protected in line with the hierarchy of designations.
- 4.2.8 ‘Policy 18: Infrastructure’ seeks to ensure new development is provided with the necessary infrastructure. It is based on an Infrastructure Delivery Plan that has been prepared to support the Aligned Core Strategy. This includes infrastructure requirements and viability information.

- 4.2.9 'Policy 19: Developer Contributions' confirms the current use of section 106 agreements.

### 4.3 Saved Policies of the Broxtowe Local Plan

- 4.3.1 The Core Strategy contains broad policies and a Development Management Policies Document will be developed in due course. In the meantime, Appendix E of the Core Strategy confirms which Local Plan policies are saved. Relevant saved policies are as follows:
- 4.3.2 Policy E24 'Trees, hedgerows and Tree Preservation Orders' states that development that would adversely affect important trees and hedgerows will not be permitted.
- 4.3.3 Policy E26 'Pollution' states planning permission will not be granted for development which would result in a significant deterioration in air quality, significant loss of health or amenity to nearby occupants or surface water contamination.
- 4.3.4 Policy E27 'Protection of Groundwater' states planning permission will not be granted for development which would be liable to result in the infiltration of contaminants into groundwater resources unless mitigation measures are proposed.
- 4.3.5 Policy E29 'Contaminated Land' states development of land which may be contaminated will not be permitted unless a site investigation (using a method agreed in writing with the Council) has been carried out; details of remedial measures have been approved by the local planning authority and the relevant consultation bodies; there will be no significant risk to the health and safety of occupants of the development and there will be no contamination of any surface water, ground water or adjacent land.
- 4.3.6 Policy H5 'Affordable Housing' states that on housing sites of over 1 hectare or over 25 dwellings, the Council will seek to ensure that at least 25% of dwellings built will be affordable or, exceptionally, that a financial contribution will be made to enable the provision of an equivalent amount of affordable housing off site.
- 4.3.7 Policy H6 'Density of Housing Development provides density requirements for residential development: where development is within 400m walking distance of frequent public transport services a minimum density of 40 dwellings per hectare is required and if the distance is beyond 400m, 35 dwellings per hectare.
- 4.3.8 Policy T1 'Developers' Contributions to Integrated Transport Measures' states that planning permission for developments which generate a demand for travel will not be granted until a contribution towards transport infrastructure has been negotiated.
- 4.3.9 Policy T11 'Guidance for Parking Provision' and Appendix 4 to the Local Plan require satisfactory provision of vehicle parking and servicing, in accordance with the latest standards.
- 4.3.10 Policy RC6 'Open Space: Requirements for New Developments': Provision should be made for public open space and children's play areas on residential

development sites which exceed 0.5 hectares. The design of any open space provision should take into account the possible provision of features beneficial to wildlife.

- 4.3.11 Policy RC14 'Footpaths, Bridleways and Cycle Routes' states that Council will protect, maintain and where appropriate seek to extend the network of footpaths, bridleways and cycle routes in the borough.

5 Consultations

- 5.1 Nottinghamshire County Council as Highways Authority has no objection as there will be no material impact of the development on adjacent roads and the proposals have already been approved previously. Conditions are recommended relating to the submission of detailed plans for the proposed roads, the use of a hard bound material on driveways and parking and turning areas, the provision of wheel washing facilities on the site, adequate pedestrian visibility splays and adequate drainage to prevent unregulated discharge of surface water onto the public highway. A contribution of £76,480 is requested towards integrated transport measures.
- 5.2 Nottinghamshire County Council's Area Rights of Way Officer has stated that public footpaths should not be affected or obstructed in any way by the proposed development unless subject to appropriate diversion or closure orders. It was confirmed that the proposed path surface materials are acceptable.
- 5.3 Nottinghamshire County Council, as education authority, has commented that the development would yield an additional 14 primary and 11 secondary school places. They therefore seek a contribution of £350,230 (14 x £11,455 for primary provision and 11 x £17,260 for secondary provision) to help provide these places. They also comment that the development would impact on local library services and seek a contribution of £3,064 towards the additional stock that would be required.
- 5.4 Nottinghamshire County Council as the Lead Local Flood Authority (LLFA) provided comments specifically in respect of the adjacent land subject to application 15/00033/REG3 however as part of this process reviewed the Flood Risk Assessment which forms part of this application. The LLFA state that putting surface water into a balancing lagoon appears a logical approach however raises concerns regarding the existing flooding problems for properties to the north west of the site.
- 5.5 The Environment Agency state no objection subject to the balancing pond, subject to planning application reference 15/00018/REG3 being put in place and the inclusion of conditions relating to the submission of a detailed surface water drainage scheme to prevent an increased risk of flooding, to improve and protect water quality, to improve habitat and amenity and to ensure the future maintenance of the sustainable drainage structures. In additional comments provided, the Environment Agency state that if the balancing pond is not granted approval and is not replaced by another storage facility elsewhere, it would object to the proposal.
- 5.6 Severn Trent Water has no objection provided conditions are included requiring drainage plans for the disposal of surface water and foul sewage to be submitted and approved by the Local Planning Authority.

- 5.7 The Coal Authority has no objection subject to the identified remedial measures being carried out and a note to applicant highlighting that the site lies within an area which may contain potential coal mining hazards any intrusive works will require a Coal Authority Permit.
- 5.8 The Council's Environmental Health Officer has no objection subject to a condition requiring an investigate survey of the site to be carried out to identify if contamination is present and for any necessary remedial measures to be completed prior to any buildings being brought into use.
- 5.9 The Council's Parks and Environment Manager makes comments in respect of the species of trees proposed and the importance of trees and hedgerows to be retained and the surfacing of the public footpath.
- 5.10 The Council's Tree Officer states no objection however requires some further investigation to establish the future viability of Ash trees protected by TPO/NEW/04 in a residential setting.
- 5.11 The Council's Director of Housing, Leisure and Property Services raises no objections to the proposal.
- 5.12 Nottinghamshire Wildlife Trust states that it generally accepts the findings of the updated ecological report and highlights that the site does have biodiversity and ecological value potential for nesting birds, invertebrates and small mammals. It recommends that sensitive choice of species for landscaping are used to improve the wildlife value for the development and bat and bird boxes should be integrated within the development. It is also recommended that no site clearance work should take place during the breeding season (March to August inclusive) to protect nesting birds.
- 5.13 Greasley Parish Council raises concerns regarding existing traffic congestion and states that the development would introduce more traffic. It is also stated that, whilst there is an existing planning permission, this did not take into account the application for 34 affordable houses on the adjacent land or the 57 houses recently completed on the Giltbrook Dyers and Cleaners Site. The development should not proceed without funds for the provision of traffic mitigation measures.
- 5.14 Councillor Rowland has highlighted the existing flood risk problems experienced by residents on Thorn Drive and Gorse Close. He has also commented that there are already problems caused by on-street parking on both sides of Acorn Avenue which makes it difficult for refuse and emergency vehicles. Damage to parked vehicles is a common occurrence and this further development will exacerbate the problem and raise fears over safety and access. Consideration should be given to the timing of building works.
- 5.15 To publicise the application, 51 residential properties were consulted, two site notices were posted around the site's perimeter and an advertisement was placed in the Nottingham Evening Post. Thirteen letters of objection were received and two letters in support of the application. The comments received raise the following issues:



**Principle**

- Excessive number of dwellings
- Losing greenfield land
- Alternative sites are available
- Buildings excessive in bulk and scale

**Amenity**

- Overlooking/loss of privacy
- Overshadowing/loss of light
- Sense of enclosure
- Noise and disturbance

**Highways and access**

- Extra traffic, on street parking demand and congestion already causing issues on the surrounding streets
- Local road infrastructure is inadequate
- Inadequate access

**Other Issues**

- Loss of view
- Will make existing flooding problems worse through building on undeveloped land
- Inaccurate information submitted within the application
- Increase in number of local children needing a recreation facility.
- Area does not have the necessary infrastructure to support the development, no shops and schools/doctors/dentists
- Devalue properties
- Disruption to foundations
- Loss of wildlife/ natural area

6 Appraisal

6.1 The site has had permission to be used for residential development since 1993, with an extant permission for 109 dwellings of which 46 have already been built and occupied. The owners of the site however wish to revisit the layout of the development and update the house types. The main considerations with the application therefore are: the design and layout; density and housing mix; flooding; impact on protected trees; traffic; and amenity for future occupants and existing residents.

**6.2 Design and layout**

6.2.1 The layout shows a total of 67 dwellings, which when subtracting the number of homes already constructed under the extant permission (92/00730/FUL) results in an increase of four dwellings. The increase in numbers has been achieved through minor revisions to the layout and changes in house type. The internal layout of the scheme consists of a roadway with two roads leading from this with turning heads to serve the proposed dwellings.

- 6.2.2 The majority of the dwellings face onto and have their access either from Acorn Avenue or the internal roads (shown as Filbert Drive 'Road K' and Alton Drive 'Road L'). Plots 220-225 and plots 248-250 are served from private drives. The layout forms a continuation of the completed housing development on Acorn Avenue and will therefore be similar in terms of form and character which is considered to be suitable for this area.
- 6.2.3 Some of the properties have detached garages, whilst others have internal garages with all the properties being set back behind either front gardens, driveways or a combination of the two. There are variations in the size of the houses, the roof design and in the brick and fenestration detailing. It is considered that the style of housing proposed would be in keeping with the existing houses constructed on Acorn Avenue and appear appropriate in design terms for this predominantly residential area.

### **6.3 Density and housing mix**

- 6.3.1 Policy H6 'Density of Housing Development' provides density requirements for residential development. Where development is within a 400m walking distance of frequent public transport services, a minimum density of 40 dwellings per hectare is required and if the distance is beyond 400m, 35 dwellings per hectare is required. The proposal equates to a net density of approximately 28 dwellings per hectare, which is below this figure. However, it is considered that the housing density proposed does reflect the density of the surrounding area, particularly the completed element of the housing scheme on Acorn Avenue, and reflects the density of the principle established through the existing permission. There are also level differences within the site that the proposals have to take into account to ensure that there is no privacy or overbearing impact. It should also be noted that Paragraph 47 of the NPPF states that local planning authorities should set out their own approach for housing density to reflect local circumstances. It is acknowledged that a planning application for the site was refused (06/00967/FUL) based on it failing to meet the density requirements of PPS3 and Policy H6 of the Broxtowe Local Plan. However, the policy position has since advanced with the NPPF having since replaced PPS3. In this case it is considered that the housing density successfully reflects local circumstances and therefore would accord with the NPPF and with Policy 8 of the Broxtowe Aligned Core Strategy. Due to this it is considered that a refusal could no longer be justified based on density.
- 6.3.2 With regards to the housing mix, whilst the application proposes primarily four and five bedroomed detached houses, there is a mix of house types in the locality including smaller houses on the former Giltbrook Dyers and Cleaners site, bungalows on Thorn Drive and larger detached houses on Acorn Avenue. The proposal will provide family housing in an existing residential area and it is considered that approval of the development will not adjust the supply of housing in the area to the detriment of certain household sizes. The proposed housing mix is therefore considered to be acceptable.

### **6.4 Amenity**

- 6.4.1 Garden lengths vary throughout the development from plot 220 which has a garden size ranging between 7m and 13m to plot 197 which has a garden length in excess

of 17m. All of the proposed gardens are considered to be sufficiently sized to provide adequate outdoor amenity space for prospective occupiers of the houses. The houses with the longest gardens (plots 194 to 205) are positioned where the level changes within the site are more acute. These houses will be at a higher level than those on the adjacent land where affordable housing is proposed. It is considered that the longer gardens will protect the privacy of both occupiers of houses subject to this application and the occupiers of houses on the adjacent land subject to the separate planning application. The distances are considered more than adequate to protect the amenity of dwellings on Thorn Drive if the separate application for 34 dwellings is refused or not implemented.

- 6.4.2 There is concern from existing residents on Acorn Avenue, The Pastures, Robina Drive and Juniper Court that the proposed development will overlook their properties, will be overbearing and cause overshadowing. Along the southern boundary of the application site the proposed houses have garden lengths in excess of 10m. Houses along the southern boundary also have garden lengths in excess of 10m. It is considered that these distances are adequate to prevent a loss of amenity to the existing houses on the south side of Acorn Avenue.
- 6.4.3 Along the eastern boundary there are existing houses on Robina Drive and Juniper Court. These houses have smaller gardens than those on Acorn Avenue ranging in 6m to 9m in length. The back to back distance from the rear of the proposed houses to the original rear wall is 17m. This is considered to be on the limit of what would be considered to be acceptable without an unacceptable level of overlooking or the development being overbearing on existing occupiers. If plots numbered 222, 223, 224, 225, 248, 249 or 250 were to be extended at a later date this distance could be reduced. This would potentially lead to an unacceptable loss of amenity to the occupiers of properties on Robina Drive and Juniper Court. It is therefore considered justified to remove permitted development rights for the plots stated above so future extensions can be controlled so as not to be overbearing on the occupiers of existing properties. There will be a significant change in view from existing residents which currently look onto open space. However, taking into account the extant permission for housing which can be implemented, and as loss of view is not a material planning consideration, it is considered that this would not be a reason for refusal.
- 6.4.4 Along the northern boundary the development borders properties on Acorn Avenue and, on the north western corner of the site, The Pastures. With regards to Acorn Avenue, the proposed houses have a minimum garden length of 15m. Existing houses on Acorn Avenue have a minimum garden length of 9m. From assessing the relationship between the existing and proposed houses it is considered that due to the distances and the positioning of the proposed houses that a loss of amenity will not occur to occupiers of houses on Acorn Avenue. Where the distance between houses is not as long, for example between plot 220 and 23-25 Acorn Avenue, the existing properties will face towards the side elevation. The distance (15m) is considered to be acceptable so that the proposed house is not overbearing and any windows proposed at first floor level are shown to be obscure glazed to prevent a loss of privacy occurring. Proposed houses in the north western corner of the site have gardens 13m in length. There are back-to-back distances from original elevation walls in excess of 20m. Due to this distance it is considered that a loss of amenity will not occur to existing houses on The Pastures.

## 6.5 Flood risk

- 6.5.1 There have been historical instances of flooding in the area, in particular the summer of 2013 where there were two events where a number of properties on Thorn Drive and Gorse Close were flooded internally. The application site is positioned at a higher level than both the adjoining site where affordable housing is proposed and at a higher level than properties on Thorn Drive.
- 6.5.2 A joint Flood Risk Assessment has been produced for this application and for the application for affordable housing on the adjoining site. The Flood Risk Assessment assesses existing flood risk and proposes a scheme for managing flood and drainage water for the two sites. An application has been submitted on a parcel of land to the south west of the site which forms part of the Smithurst Meadows Local Nature Reserve for a 'enhanced drainage/biodiversity attenuation storage' (15/00018/REG3). It is argued that this will provide betterment through passing the surface water drainage through the proposed water attenuation pond which will return flows back to the greenfield runoff rate for this site and for the affordable housing scheme. This will remove the adjacent site catchment from the surface water sewer network which is known to flood. To further reduce flood risk, floor levels are proposed to be set a minimum of 150mm above the surrounding external levels and sub-surface attenuation tanks will be provided to reduce and prevent flooding from the existing sewer network.
- 6.5.3 To assess the proposed drainage and flood risk strategy the Council instructed AECOM, as independent Flood and Water Management consultants, to assess the Flood Risk Assessment. Following a request for further information and a meeting held with the flood risk consultants for this planning application, AECOM concluded that the proposed development is at low risk of flooding and should not increase the level of risk posed to third parties. It is also considered that viable SuDS solutions are available and this detail could be finalised at detailed design stage.
- 6.5.4 AECOM identified that the land on which the now withdrawn affordable housing is proposed may be required for future flood mitigation to manage existing flooding problems although did not identify any problems in terms of the flood mitigation scheme proposed for this application which will be dependent on the provision of the drainage attenuation pond. Whilst the flooding issues on the adjoining land have been considered in further detail within the other reports, it is considered, in line with the advice from AECOM, that an adequate drainage strategy could be developed even if the adjacent land is not now developed.
- 6.5.5 Nottinghamshire County Council as Lead Local Flood Authority (LLFA) reviewed the Flood Risk Assessment and did not raise any specific concerns with regards to this application. The Environment Agency state no objection on the basis that measures should be put in place to ensure that the balancing pond (planning application reference 15/00018/REG3) is built and maintained for the lifetime of the development and a condition relating to a 'surface water drainage scheme' for the site is included in any permission. Severn Trent has no objection to the application subject to a condition relating to the management of surface water and foul sewage drainage.

- 6.5.6 Based on the comments provided by AECOM and by statutory consultees, it is considered that for this application, an adequate drainage and flood management scheme can be implemented to ensure, in accordance with paragraph 103 of the NPPF, that the development is appropriately flood resilient and will not increase flood risk elsewhere.

## **6.6 Access and traffic**

- 6.6.1 A number of concerns have been raised by local residents regarding traffic generation from the scheme, existing on-street parking issues and the junction capacity at Nottingham Road.
- 6.6.2 Nottinghamshire County Council as Highways Authority has been consulted on the application and, having regard to the extant permission, does not consider that there would be any material impact on the adjacent roads. Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Whilst the development is likely to increase the existing traffic levels on Acorn Avenue, it is not considered that the addition of four extra dwellings above that which already has consent will exacerbate any existing traffic problems in the area to an extent which would be considered 'severe'.
- 6.6.3 All of the properties have a minimum of two parking spaces, with some having several spaces within their plots. Whilst a household may have more than two vehicles, it is common for vehicles to park on the street and it is for the owner of that vehicle to park in a manner in which cars can pass. The Highways Authority has not raised any objection with the parking provision across the site.

## **6.7 Trees**

- 6.7.1 The site has a group trees subject to a group Tree Preservation Order within the south-eastern corner of the site, adjacent to plot 251. The trees are proposed to be retained and the Council's Tree Officer states no objection however requires some further investigation to establish the future viability of Ash trees protected by TPO/NEW/04 in a residential setting. The Council's Parks and Environment Manager made comments in respect of the species of trees proposed and the importance of trees and hedgerows to be retained. As no harm has been identified to the trees it is considered that the application is acceptable in respect of trees and further details with regards to the species of trees proposed can be included as part of a detailed landscape scheme.

## **6.8 Land contamination and stability**

- 6.8.1 The Coal Authority has no objection subject to a condition which requires site investigation work prior to development commencing. The Coal Authority states that the application site falls within the defined Development High Risk Area and refers to the Geoenvironmental Appraisal Report which accompanies the planning application. The Coal Authority concurs with the recommendations of the Geoenvironmental Appraisal Report that site investigation works need to be carried out and remedial works, if required, need to be carried out prior to work commencing on the site.

6.8.2 The Council's Environmental Health Officer has no objection subject to a condition requiring an investigate survey of the site to be carried out to identify if contamination is present and for any necessary remedial measures to be completed prior to any buildings being brought into use. With the inclusion of this condition it is considered that the application would accord with Local Plan Policy E29.

## **6.9 Other matters**

6.9.1 A public footpath runs along the rear (western boundary) of properties on Robina Drive (public footpath number 55) and through the site (public footpath number 54). Following clarification regarding the proposed surfacing materials, Nottinghamshire County Council's Area Rights of Way Officer has stated no objection provided that the public footpaths are not affected or obstructed in any way by the proposed development unless subject to appropriate diversion or closure orders.

6.9.2 The Nottinghamshire Wildlife Trust commented that no ecological information had been submitted and it therefore objected to the development. An ecological survey has since been submitted which states that the site has no significance for badgers, otters, water voles, reptiles, breeding or sheltering great crested newts or roosting bats. It also states that the site remains of very limited significance for breeding birds and that the development site in isolation is not likely to be of significance for foraging bats. It recommends that habitats would be enhanced through the appropriate use of native tree and shrub species and that if site clearance works are proposed during nesting season then prior inspections of the affected habitats should be undertaken to ensure that no active nests are present. No other mitigation measures are recommended. Enhancements are recommended through the provision of bat roosting boxes and bird nesting boxes.

## **6.10 Section 106 Agreement**

6.10.1 There is no on-site affordable housing currently proposed with the application. This is the case with the extant permission and, due to the age of the permission, there was no financial requirement for the deliverance of a commuted sum to this end. However, with an aim of bringing forward housing sites for development the Council had agreed in principle with the developers to build out this site and another at Gin Close Way in Awsworth (15/00011/FUL) with a similar density and housing mix previously approved, with no affordable permission, subject to the transfer of a parcel of land with a road, sewers and landscaping for residential development by the Council and a community housing provider on the land adjacent to this site. This was the subject of the now-withdrawn application reference 15/00033/REG3.

6.10.2 The 67 dwellings proposed here and 55 at Gin Close Way total 122. 25% of this figure, as advocated within Local Plan Policy, and the figure for affordable housing provision would be 30.5 dwellings. The provision of affordable housing would be left to detailed S106 negotiations.

6.10.3 Contributions are also requested in respect of education and for integrated highway measures. Heads of Terms were not submitted as part of this planning application and it is recommended that the Head of Neighbourhoods and Prosperity is given delegated authority to negotiate acceptable contributions to the scheme. In the

event that the S106 contributions are not compliant with policy, this will be reported to the Council's Cabinet.

- 6.10.4 Adjacent land will be available for possible flood mitigation measures in line with the recommendations of the LLFA and AECOM. This will allow the Council to enter into discussions with the owner of this land, Langridge Homes Ltd, to negotiate the transfer of this land to the Council with the objective of delivering flood mitigation measures on this land should this be the required solution following detailed investigations by the LLFA.

7 Conclusion

- 7.1 In conclusion and having regard to all comments and objections and the relevant national and local plan policy, it is considered that this proposal would be an acceptable use of a site within an existing built up area to provide further residential accommodation. It is considered, having regard to all material considerations, including the extant planning permission on the land, that the scheme is acceptable in regard to its design, scale and layout and that there would be no detriment to the prevailing character of development in the area, or loss of privacy for existing residents that would lead to any alternative conclusion. Provided the balancing pond, subject to a separate planning application, is provided and a detailed drainage scheme is submitted, it is considered that the application would not be refusible on flood risk grounds.
- 7.2 Other financial contributions will be subject to further negotiations with the applicant and if contributions are less than normal policy requirements this will be reported to Cabinet in the normal manner.

**Recommendation**

**The Committee is asked to RESOLVE that:**

- a) The Head of Neighbourhoods and Prosperity be given delegated authority to grant planning permission for application 15/00010/FUL subject to prior completion of an agreement under Section 106 of the Town and Country Planning Act 1990 and the conditions set out below.**
- 1. The development hereby permitted shall be commenced before the expiration of three years beginning with the date of this permission.**
- 2. The development hereby permitted shall be carried out in accordance with drawings numbered 161 Revision F 'Layout' and 162 Revision C 'Insert' received by the Local Planning Authority on 27 March 2015 and drawings numbered: DA/2007 Revision P; N2/2006 Revision J; E20/2010 Revision T; S20/2010 Revision J; T3/2007/35 Revision H; T20/2010 Revision K; KA/2006 Revision K; K6A/2006 Revision Q; E18HA/2010/35 Revision G; B5/2007/35 Revision D; C7AB/2007 Revision M; A1/2006 Revision G; and K5/2006/35 received by the Local Planning Authority on 7 January 2015 and drawings numbered: Garage/DG/2/88s/B Revision A; Garage/DG/2006/B/35 Revision A; Garage/DG/2006/B Revision A; Garage/A/2006/B/35 Revision A; Garage/E/30**

- Revision A; and Garage/A/2006/B Revision A received by the Local Planning Authority on 12 January 2015.
3. No building operations shall be carried out until details of the manufacturer, type and colour of the materials to be used in the facing walls and roofs, details of the colour of the rainwater goods, and the colour and location of the external meter cupboards have been submitted to and approved in writing by the Local Planning Authority and the development shall be constructed only in accordance with those details.
  4. No part of the development hereby approved shall be commenced until the coal mining remedial works, as recommended in the Geoenvironmental Appraisal Report (March 2013) and the Interim Report on the Geological/Mining Position of Giltbrook Farm Site, Eastwood, Nottingham (November 1979, K. Wardell and Partners) as annotated on the accompanying drawing (K. Wardell and Partners, Drawing No. 10/3176/1 have been implemented in full to the satisfaction of the Local Planning Authority.
  5.
    - (a) No part of the development hereby approved shall be commenced until an investigative survey of the site has been carried out and a report submitted to and approved in writing by the Local Planning Authority. The survey must have regard for any potential ground and water contamination, the potential for gas emissions and any associated risk to the public, buildings and/or the environment. The report shall include details of any necessary remedial measures to be taken to address any contamination or other identified problems.
    - (b) No building to be erected pursuant to this permission shall be first occupied or brought into use until:-
      - i. All the necessary remedial measures have been completed in accordance with the approved details, unless an alternative has first been approved in writing by the Local Planning Authority; and
      - ii. It has been certified to the satisfaction of the Local Planning Authority that the 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, unless an alternative has first been approved in writing by the Local Planning Authority.
  6. No part of the development hereby approved shall commence until a detailed surface water drainage scheme and foul sewage scheme, including details of the attenuation feature subject to planning application 15/00018/REG or an alternative drainage strategy based on sustainable drainage principles, and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority in consultation with the Environment Agency. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall demonstrate:
    - Surface water drainage system(s) designed in accordance with CIRIA C697 and C687 of the National SUDS Standards, should the latter be in force when the detailed design of the surface water drainage system is undertaken.



- Limiting the discharge rate generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm ideally to Greenfield rates for the site but as a minimum not to exceed the run-off from the undeveloped site and will not increase the risk of flooding off-site.
- Provision of surface water run-off attenuation storage in accordance with the requirements specified in 'Science Report SCO30219 Rainfall Management for Developments'.
- Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
- Details 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 operation to design parameters.

7. No part of the development hereby approved shall take place until details of the new roads have been submitted to and approved in writing by the Local Planning Authority including longitudinal and cross sectional gradients, street lighting, drainage and outfall proposals, construction specification, provision of and diversion of utilities services and any proposed structural works. Pedestrian visibility splays of 2m x 2m shall be provided on each side of the vehicle access leading to parking spaces and/ or garages. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.
8. No dwelling shall be first occupied unless and until its associated access driveway and/or parking spaces have been constructed to prevent the unregulated discharge of surface water from the driveway and/or parking spaces onto the public highway.
9. No part of the development hereby approved shall commence until wheel washing facilities have been installed on the site in accordance with details first submitted to and approved in writing by the Local Planning Authority. 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 debris is discharged or carried onto the public highway. These facilities shall be retained on the site until the substantial completion of construction work.
10. The erection of fencing for the protection of the protected trees shall be undertaken in accordance with details to be submitted to and approved by the Local Planning Authority before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced

in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.

11. No part of the development hereby approved shall take place until a landscaping scheme has been submitted to and approved by the Local Planning Authority. This scheme shall include the following details:

- (a) trees, hedges and shrubs to be retained and measures for their protection during the course of development
- (b) numbers, types, sizes and positions of proposed trees and shrubs
- (c) proposed hard surfacing treatment including detailing of the footpaths
- (d) planting, seeding/turfing of other soft landscape areas
- (e) proposed boundary treatments including along the external boundaries.

The approved scheme shall be carried out strictly in accordance with the approved details.

12. The approved landscaping shall be carried out not later than the first planting season following which the substantial completion of the development 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.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and/or re-enacting that Order) no extension or enlargement (including additions to roofs) within Schedule 2, Part 1, Classes A, B, or C shall be made to the following dwellinghouse(s) as shown on drawing number 161 Revision F 'Layout': Plots 222, 223, 224, 225, 248, 249 and 250 without the express permission in writing of the Local Planning Authority.

### Reasons

1. To comply with S91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt.
3. No such details were submitted and to ensure the development presents a satisfactory standard of external appearance, in accordance with the aims of Policy 10 of the Broxtowe Aligned Core Strategy (2014).
4. In the interests of public health and safety.
5. In the interests of public health and safety and in accordance with Policy E29 of the Broxtowe Local Plan (2004).

6. To prevent the increased risk of flooding, to improve and protect water quality; and to ensure the future maintenance of the sustainable drainage structures in accordance with Policy 1 of the Broxtowe Aligned Core Strategy (2014) and the National Planning Policy Framework (2012).
7. In the interests of highway safety.
8. In the interests of highway safety to ensure surface water from the site is not deposited on the public highway causing danger to road users
9. In the interests of highway safety.
10. To ensure the existing trees protected by a Tree Preservation Order are not adversely affected and in accordance with Policy E24 of the Broxtowe Local Plan (2004)
11. To ensure that the details are satisfactory in the interests of the appearance of the area and in accordance with the aims of Policy 10 of the Broxtowe Aligned Core Strategy (2014).
12. To ensure the development presents a more pleasant appearance in the locality and in accordance with the aims of Policy 10 of the Broxtowe Aligned Core Strategy (2014).
13. To protect the amenity of neighbouring occupiers and in accordance with Policy 10 of the Broxtowe Aligned Core Strategy (2014).

#### Notes to Applicant

1. The Council has acted positively and proactively in the determination of this application in line with the guidance contained within paragraphs 186 and 187 of the National Planning Policy Framework, by communicating with the agent during the course of the application.
2. Conditions 3,4,5,6,7,9 and 11 are required to be pre-commencement conditions as no/insufficient information on those matters was submitted with the application and as those parts of the development cannot proceed satisfactorily without the outstanding matters being agreed in advance of those aspects, respectively, of the development commencing.
3. Any tree works should be undertaken outside of the bird-breeding season (March-September inclusive). If works are to be carried out during this time then a suitably qualified ecologist should be on site to survey for nesting birds. Birds, their nests and eggs (except pest species) are protected by the Wildlife and Countryside Act 1981 (and as amended).

4. Greasley Footpaths Number 54 and 55 runs through the site. The footpath should remain open and unobstructed at all times. If a temporary closure of the footpath is required Nottinghamshire County Council's Countryside Access Team must be contacted at least 5 weeks before to allow for a Temporary Closure Order to be put in place. Nottinghamshire County Council can be contacted on 0300 500 8080.

5. The proposed development lies within an area that has been defined by the Coal Authority as containing potential hazards arising from former coal mining activity. This may result in problems to occur in the future, particularly as a result of the development taking place. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes.

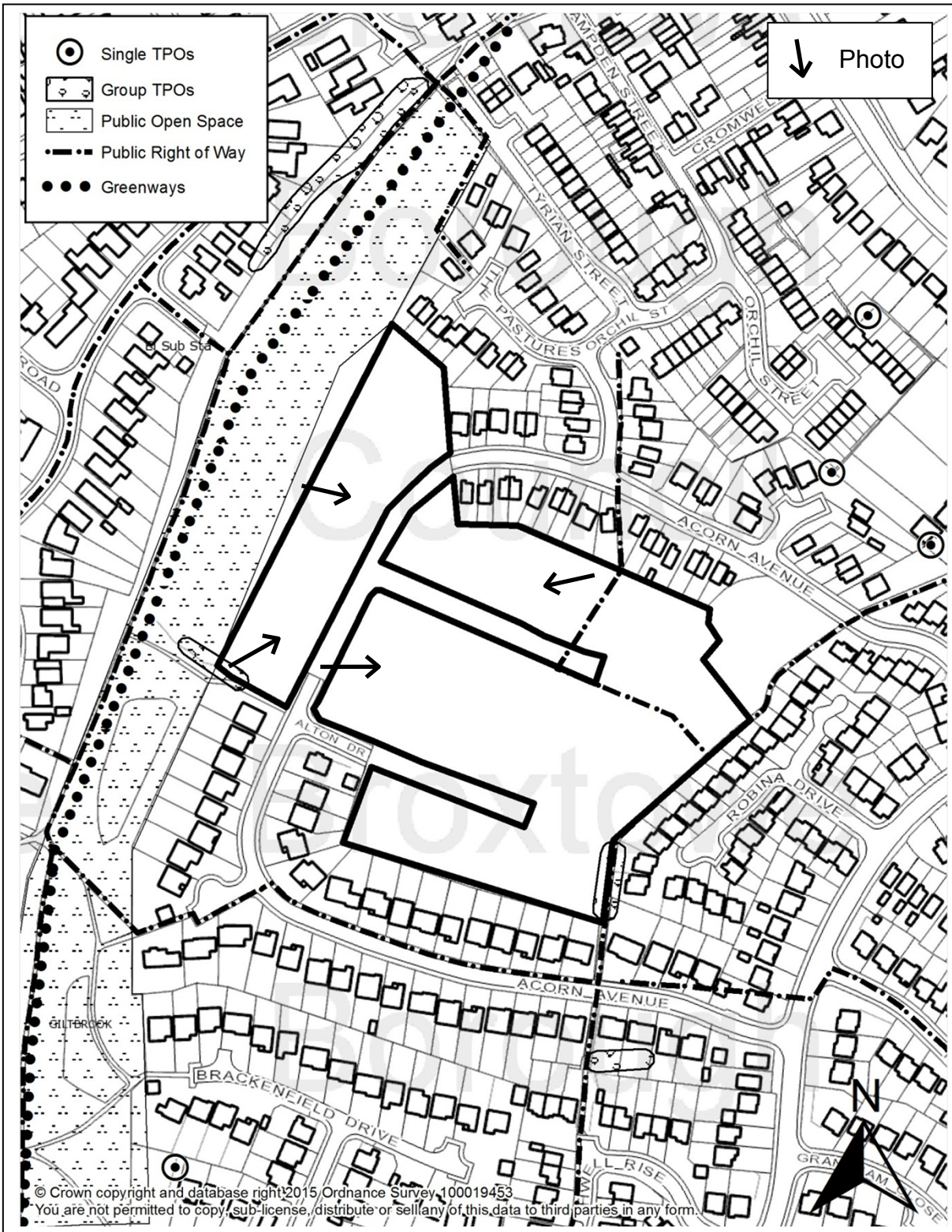
The applicant should be aware that any intrusive activities and any subsequent treatment require the prior written permission of the Coal Authority. Failure to obtain permission will potentially result in court action. The Coal Authority can be contacted on 0845 762 6848 and further information is provided on <https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

b) If an agreement under S106 of the Town and Country Planning Act 1990 has not been reached by 11th May 2016 (6 months from the date of the Planning Committee) the Head of Neighbourhoods and Prosperity be given delegated authority to refuse planning permission for application 15/00010/FUL on the following grounds:

The applicant has failed to complete a planning obligation in timely fashion that satisfactorily meets the requirements for developer contributions as set out in the Council's Local Plan and there are no other material considerations that justify treating the proposals as an exception to those requirements.

Background papers

Application case file



**Land off Acorn Avenue, Giltbrook**  
 Construct 67 number dwellings

Planning Committee 11 November 2015

Scale: 1: 2,500

**Directorate of Legal and Planning Services**