

## Report of the Chief Executive

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

This application has been brought back to Committee following the resolution to grant planning permission subject to a Section 106 Agreement at 11 November 2015 meeting as, prior to the signing of the legal agreement, the applicant has proposed some amendments to the scheme.

**1.0 Details of the application**

- 1.1 Proposals for the construction of 67 dwellings at land adjacent to an existing residential development within the larger Smithurst Road development, Giltbrook was heard by planning Committee on 11 November 2015. Members resolved to approve the development in line with officer recommendation. This was subject to a number of conditions and the prior signing of a Section 106 Agreement. This agreement was a mechanism to obtain contributions and land from the applicants to facilitate a scheme, which would be implemented by the Lead Local Flood Authority (LLFA), to reduce the impact of surface water run-off in the locality.
- 1.2 It is understood that the LLFA have commissioned a report which has modelled various scenarios as a result of a number of alternative measures which could be put in place to address the flooding issues locally. It is understood that a final scheme has not yet been agreed.
- 1.3 Discussions regarding the precise wording and requirements of the Section 106 Agreement are ongoing and have involved a number of parties. It is understood that the document is close to being ready for endorsement.
- 1.4 In advance of this the applicant has submitted a number of changes to the scheme. These largely relate to updates in house type, although some changes are proposed to the layout. The number of dwellings remain unchanged, as does the site area and the properties will all be 4 or 5 bedroom detached houses as previously considered.
- 1.5 The officer's original report to Committee is attached as an appendix. The site and surroundings remains unchanged.

**2.0 Policy context**

- 2.1 The National and local policy context remains as it was in November 2015 with the exception of the publication of the Broxtowe Part 2 Local Plan with relevant policies summarised below.
- 2.2 The Part 2 Local Plan includes site allocations and specific development management policies. Consultation on the draft plan occurred between 18 September and 3 November 2017. The consultation comments are currently being considered and a summary of the comments provided were reported to the Council's Jobs and Economy Committee on 14 December 2017. This includes specific

comments in respect to the policies outlined below. Due to the current stage of the plan preparation, only limited weight can be attached to the policies.

- 2.3 Policy 15: ‘Housing Size, Mix and Choice’ states that affordable housing should be provided at the Eastwood submarket comprising 10 or more residential units, at a proportion of 10% or more. Affordable housing provision should be made on site, unless there are exceptional circumstances to justify otherwise, should be integrated with market housing and should be of a similar size, type and external style as the market housing. Developments of market and affordable housing should provide an appropriate mix of house size, type, tenure and density to ensure that the needs of the residents of all parts of the Borough are met.
- 2.4 Policy 17: ‘Place-making, design and amenity’ states that permission will be granted for development which integrates into its surroundings, creates well defined streets and places, provides adequate amenity space, ensures a satisfactory degree of amenity and does not prejudice the satisfactory development of a wider area. For housing developments of 10 dwellings or more, an assessment is expected in relation to the Build For Life criteria.
- 3.0 Consultations
- 3.1 Consultations on the revised plans have been undertaken with all neighbours who directly adjoin the site together with Nottinghamshire County Council as highway authority, public rights of way, ward members and the Council’s tree officer. More widespread re-consultations have not taken place as the alterations to the development proposed do not impact on the principle of the development.
- 3.2 Nottinghamshire County Council as Highways Authority has no objections to the amendments. They comment that they have had a technical approval submission for the scheme and the amended layout plan is in accordance with that. They recommend conditions in line with those proposed as part of the original recommendation to planning Committee.
- 3.3 The Rights of Way Officer at Nottinghamshire County Council makes no objections to the amendments. They comment that the availability of the path should be unaffected or obstructed by the proposed development unless an appropriate diversion or closure order is in place.
- 3.4 The Council’s Tree Officer raises no objections to the development and comments that the proposed ‘root protection area’ surrounding the protected trees is sufficient.
- 3.5 Six letters of objection have been received with a further 5 letters being received which appear to also raise concerns/objections without explicitly stating such. The comments received raise the following issues:
- Excessive number of dwellings.
  - Overlooking/loss of privacy
  - Overshadowing/loss of light
  - Sense of enclosure
  - Noise and disturbance

- Extra traffic, on street parking demand and congestion already causing issues on the surrounding streets.
- Local road infrastructure is inadequate
- Why has the road serving plots 205-209 been left open? Is it intended to use this as a further drainage easement or is a new road linking up to Thorn Drive or Portland Road something for the future?  
If there's to be no further development of the green space as promised why is the road not made into a 'dead end'
- Loss of view
- Drainage easement between plots 195 and 196, excess surface water should not be left to drain naturally due to localised flooding issues. Are plans for the attenuation facility already decided? Is there a guarantee that surface water will not run down to flood the properties already at risk?
- Area doesn't have the necessary infrastructure to support the development, no shops and schools/doctors/dentists.
- Timescale for details of drainage attenuation storage facility.
- Damage already been done to fence by developer.
- Development will greatly increase water run-off to an area already suffering from serious flooding. Nothing on the plans mitigates this.

#### 4.0 Appraisal

4.1 The principle of development has already been considered by members to be acceptable and progress has been made on the Section 106 Agreement to secure land and funding for flood alleviation measures. The minor revisions to the application for consideration relate to amendments to property types (design and siting) and to the overall layout.

#### 5.2 Layout

5.2.1 The layout of properties to the southern side of Alton Drive remain largely as approved with some minor alterations to the siting of dwellings within plot. These all retain garden lengths in excess of 10 metres and are considered to be acceptable amendments to the scheme.

5.2.2 To the northern side of Alton Drive some minor alterations again have been made to the siting of the properties within their individual plots and the layout at the head of the cul-de-sac has been amended with all properties now proposed to have direct access from the road, rather than a private drive serving three properties. This has moved the built form closer to the existing properties on Robina Drive. Plot 250 will now be within 13 metres of the closest existing property. Previously this figure was 20 metres and the property was angled with the rear elevation facing the rear of the existing property. The proposed amendments bring the proposed development closer and its side elevation now faces the existing property. This elevation is largely blank, other than one obscurely glazed window serving a bathroom at first floor. This is a typical relationship to many other properties on the estate and whilst there will be some loss of late afternoon sun to the rear of the existing property it is not considered that this would be significant.

5.2.3 On Filbert Drive, again garden depths which face onto existing properties all remain in excess of 10 metres with the main changes to the layout centring around the end of

the cul-de-sac. As is the case on Alton Drive plots 223 and 224 have been located with their side elevations now facing existing properties, rather than their rear. Both plots have a single pane opening in this side elevation serving a bathroom. The two storey section of Plot 223 will be within 13.5 metres of the closest existing property at its nearest point (7.5 metres away from the site boundary) and plot 224 14.5 metres. Again these types of relationships are not uncommon on new housing estates. The side facing side elevations will reduce any possible overlooking resulting in loss of privacy and whilst there will be some loss to late afternoon sun it is considered that on balance the relationship is acceptable.

5.2.4 It is considered that the most significant alteration to the layout relates to the drainage easement to the west of Acorn Avenue between plots 195 and 196. Whilst this will open up a gap in the row of properties it is not considered that this particularly weakens the streetscene to any significant detriment.

#### 6.0 House type revisions

6.1 14 new house types are proposed to replace the 12 previously recommended for approval. These are broadly similar, in terms of style, design and size and consist of 4 and 5 bedroom detached properties.

6.2 The properties are simplistic in form with a mix of pitched and hipped roofs and are proposed to be constructed using bricks and tiles. They will contribute well to the mix of house types and the character and appearance of the streetscene and wider area.

#### 7.0 Other matters

7.1 The resolution granted by Members in late 2015 was two-fold, that permission be granted subject to a Section 106 Agreement and various conditions and that if an agreement had not been reached within 6 months of the Committee that delegation be given to the Head of Neighbourhoods and Prosperity to refuse the application if deemed appropriate.

7.2 Whilst this six-month time period has long since elapsed this is due to on-going discussions with various parties regarding the flooding issues in the area. It is understood that the applicant is in agreement with the Council as to the wording and content of the agreement and that this is ready to be endorsed and signed by all parties.

7.3 Condition 13 which removed 'permitted development rights' for the future occupants of some of the plots has been amended to reflect the changes to the layout which means it is no longer necessary to remove these rights for all the plots that would previously have been subject to this condition.

7.4 Given the early stage of the Part 2 Local Plan, it would not be reasonable or necessary to require additional revisions to be made in view of these draft policies which have not been subject to independent examination.

## 8.0 Conclusion

- 8.1 In conclusion and having regard to all further comments received and the relevant national and local plan policy, it is considered that the proposed amendments to the scheme first considered by members in 2015 are acceptable and that other than revisions to the approved drawings numbers under condition 2 no further variations to the recommendation are made.

### **Recommendation**

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 AAGDR01-SLP Revision K received by the Local Planning Authority on 4 April 2018 and drawings numbered: KB1/2017 (OSG) Rev A, KB1/2017 (HSG) Rev A, N2/2017 (HSG) REV a, K7/2017 (OSG) Rev A, K7/2017 (HSG) Rev A, received by the Local Planning Authority on 26 February 2018 and drawings numbered: KA2/2017 (HSG), KA2/2017 (OSG), A1/2018 (OSG), A1/2018 (HSG), B6/2017 (OSG), C8/2016 (OSG), C9/2016 (OSG), C9/2017(HSG), S20/2018 (OSG), S20/2018 (HSG), T20/2017 (OSG), T20/2017 (HSG), Z4/2018 (OSG), Z4/2018 (HSG), DA3/2017 (O), DA3/2017 (H), E20/2016 (OSG), E20/2017 (SG), F5/2018 (HSG), plot 223 F5/2018 (OSG) and plot 224 F5/2018 (OSG) received by the Local Planning Authority on 2nd February and 27 March 2018 and drawing numbered: Garage/DG/2/88s/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 dwelling house(s) as shown on drawing number AAGDR01-SLP Revision K: Plots 223, 224 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>

#### Background papers

Application case file

Appendix - Planning Committee report dated 11 November 2015