

Report of the Chief Executive

**18/00197/FUL
RETAIN SUMMERHOUSE AND OUTBUILDING EXTENSION
65 NEWDIGATE ROAD WATNALL NOTTINGHAM NG16 1HN**

Councillor Jill Owen requested this application be determined by the Planning Committee.

1 Details of the Application

- 1.1 The application seeks retrospective planning permission to retain extensions to an existing outbuilding, positioned to the rear of the dwelling, and to retain a single storey summerhouse, positioned in the north west corner of the application site.
- 1.2 The original outbuilding structure forms the eastern section of the current building to be retained and is 11.94m in length with a width of 4.295m and ridge height of 3.35m. The works requiring planning permission extend the building by 7.0m to the north west with the extension having a width of 5.15m. The total size of the outbuilding, including the extensions is 80.683 sq.m.
- 1.3 The summerhouse has already been erected in the north corner of the rear garden and has a width of 4.15m with a total length of 6.4m, ridge height of 2.8m and eaves height of 2.0m.

2 Site and Surroundings

- 2.1 The application property is a two storey detached residential dwelling, occupying a large plot on the corner of Newdigate Road and Cloverlands Drive.
- 2.2 The application property has one immediate neighbour to the north with this boundary made up of a wooden panel fence, circa 1.8m high, and a hedge, circa 2m high. The boundary to the rear is a 1.9m high wooden fence with residential flats occupying the land adjoining the site. The south boundary adjoins Cloverlands Drive with the boundary made up of a 2m high wooden fence with a hedge on the road side of the boundary. There is an existing access to the rear garden from this road.



North West elevation of extensions.
Also shows relationship with protected tree.



Relationship between outbuilding and boundary adjoining 67 Newdigate Road.



Relationship between outbuilding and boundary adjoining 67 Newdigate Road.



Front elevation of original dwelling.



View from rear window of neighbouring property (67 Newdigate Road).



Summerhouse in north corner of rear garden.

View of development from Cloverlands Drive.

3 Relevant Planning History

- 3.1 65 Newdigate Road has been subject to four previous planning applications for the construction of a new residential dwelling to the rear of the original dwelling, all of which have been refused planning permission.
- 3.2 In 2007, an outline planning application (ref: 07/00861/OUT) was submitted applying for the construction of a two storey dwelling to the far end of the rear garden. The application was refused on the grounds that the site could not accommodate an additional dwelling that would not cause unacceptable harm to the roots of the trees on the site, especially the tree protected by a TPO. A second reason cited was that it would cause an unacceptable loss of privacy and amenity to the occupiers of the new dwelling and neighbouring properties.
- 3.3 In 2011, an application was submitted (ref: 11/00250/FUL) for a two storey detached dwelling to be erected on the same site. The application was refused planning permission on the grounds of design by virtue that the scale and massing would be out of keeping with and have an unacceptable impact on the character and appearance of the immediate area. It was also considered that due to the proximity of the proposed dwelling to the northern boundaries on the site it would result in a cramped and overbearing form of development which would have an adverse impact on the amenity of the occupiers of the adjacent property. A further reason given for refusal was that the occupants of the proposed dwelling would have a poor standard of amenity due to the extent of overshadowing on the site caused by existing protected trees, which would likely result in pressure to cut back or remove the trees in the future.
- 3.4 The applicant appealed this decision in January 2012 and the appeal was dismissed. The main issues identified by the Inspector were the effect of the proposal on the character and appearance of the area, and the effect of the proposal on living conditions in relation to the outlook of the occupiers of 67

Newdigate Road and in relation to the future occupiers of the proposed house with regards to the amount of sunlight received.

- 3.5 An application (ref: 13/00048/FUL) was submitted in 2013 to construct a detached bungalow on the same site. The application was once again refused on the grounds of having an unacceptable impact on the character and appearance of the immediate area and the positioning close to the northern boundary resulting in cramped and overbearing development which would have an unacceptable impact on the amenity of the neighbouring property.
- 3.6 The applicant again appealed this decision in November 2013 and the appeal was dismissed. The main issues identified by the Inspector were deemed to be the effect of the proposed development on the character and appearance of the area, and the effect of the proposed development on the living conditions of the neighbouring occupant with particular regard to outlook, although it was deemed it would not have an unacceptable impact on light or privacy.
- 3.7 An application was submitted in 2016 (ref: 16/00344/FUL) for the construction of a single storey detached dwelling. The application was refused on the grounds that it would have an unacceptable impact on the character and appearance of the immediate area. The decisions of both the 2011 and 2013 appeals were material considerations in this application.
- 3.8 The most recent application to be submitted prior to the current application was application reference 17/00796/FUL to retain the extensions to the outbuilding (garage) and convert the structure to an annexe. This application was withdrawn by the applicant.
- 3.9 In addition to the applications for the construction of a detached dwelling, an application was submitted in 2009 (ref: 09/00205/FUL) to construct a two storey side and single storey rear extension to the original dwelling. This application was granted permission and has been implemented.

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 for proposals that accord with the development plan without delay.

4.2 **Broxtowe Aligned Core Strategy**

- 4.2.1 The Council adopted the Core Strategy (CS) on 17 September 2014.
- 4.2.2 'Policy A: Presumption in Favour of Sustainable Development' reflects the presumption in favour of sustainable development contained in the NPPF. Applications which accord with the Local Plan will be approved without delay unless material considerations indicate otherwise.

4.2.3 The Aligned Core Strategy Policy 10 also aims to ensure that development has regard to the local context and is assessed in terms of its impact on the amenity of neighbouring residents.

4.3 Saved Policies of the Broxtowe Local Plan

4.3.1 The Part 2 Local Plan is currently under preparation. Until adoption, Appendix E of the Core Strategy confirms which Local Plan policies are saved. The relevant saved policy is:

4.3.2 Policy H11 - states that planning permission will be granted for minor development such as sheds and garages provided that siting, design and materials do not substantially harm the appearance of the property or the street scene, or the amenity of neighbouring occupiers.

4.4 Part 2 Local Plan (Draft)

4.4.1 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. Due to the current stage of the plan preparation, only limited weight can be attached to the policies.

4.4.2 Policy 17 states that all householder development should be of a size, siting and design that makes a positive contribution to the character and appearance of the area and does not dominate the existing building or appear over-prominent in the street scene. Any development should not cause an unacceptable loss of amenity for the occupiers of neighbouring properties.

5 Consultations

5.1 Eight neighbouring properties were consulted on this application. The Council received one letter of objection to the application with the following reasons for objection cited:

- Sense of enclosure.
- Over development of the site.
- The development is not in keeping with the surrounding area.

5.2 The Council's Senior Environmental Health Officer raises no objection to the application.

6 Appraisal

6.1 Neighbouring Amenity

6.1.2 The north east elevation of the outbuilding is set 0.25m from the boundary adjoining 67 Newdigate Road. The extended part of the property is 2.9m from the boundary and gives the structure a total length of 11.4m.

- 6.1.3 The 2013 proposal (ref: 13/00048/FUL) had a maximum ridge height of 5.75m and would have been situated 2.0m from the shared boundary with No. 67's rear garden. The Inspector determining the appeal for this application concluded that the development would result in the enclosure of No. 67's garden and would have an overbearing, harmful effect on the occupants when using their garden.
- 6.1.4 The 2016 application proposed a maximum ridge height of 4.475m and a distance of 1.5m to the rear boundary and 6.0m to the boundary with No. 67. Loss of neighbouring amenity was not cited as a reason for the refusal of this application as the 6.0m distance to the adjoining boundary was considered to be an acceptable measure to resolve the issue.
- 6.1.5 The current proposal has reduced the height of the outbuilding to 3.35m, and it is 0.25m from the adjoining boundary with No. 67 at its closest point. However, the section of the outbuilding with the maximum ridge height is 2.9m from the boundary, with the section adjoining the boundary having a reduced ridge height of 2.65m. The development has been assessed from both the garden and the first floor rear windows of No. 67. It is considered that the scale and massing of development in such close proximity to the boundary does create some overbearing effect on No. 67, therefore having an impact on the amenity of the residents of the dwelling. Taking into account the stepped nature of the ridge, setting back the highest part of the outbuilding by 2.9m, it is not considered that a refusal on the basis of sense of enclosure could be sustained. This part of the outbuilding forms the original structure, with the extension being to the north of this part. Therefore, regardless of whether or not permission is granted, this part of the building could be lawfully retained.
- 6.1.6 The extended part of the structure falls on the north west side of the existing outbuilding, is 2.9m from the adjoining boundary with No. 67 and is 12.5m from the rear elevation of No. 67. The extension has a height of 3m stepping down to 2.5m. The distance of the extended element of the structure from the rear elevation of No. 67, relative to its height is considered sufficient to ensure it does not have an unacceptable impact on the residents of the neighbouring property in terms of an overbearing impact or loss of light.
- 6.1.7 There are no windows looking directly into 67 Newdigate Road, and therefore it is not considered to have an unacceptable impact on the loss of privacy for the residents of number 67.
- 6.1.8 The extension to the outbuilding is more than 9m from the rear boundary of the application site. Considering the single storey nature of the extension and the fact that the adjoining residential units to the rear are perpendicular to the property, it is not considered it will have any impact on the amenity of the properties to the rear.
- 6.1.9 The extension is 12m from the south west boundary of the site. There is a road to the south west of the application site, with residential dwellings on the other side. It is considered that the extension is far enough away not to have an unacceptable impact on the amenity of these dwellings.

6.1.10 The summerhouse in the north corner of the rear garden is set 0.6m from the adjoining boundary with No. 67 and 1.0m from the rear boundary. However, taking into account the size of the building and the location to the end of the garden away from the original dwelling and No. 67, it is not considered to have an unacceptable impact on the amenity of neighbouring properties.

6.2 Design and Appearance

6.2.1 The application site is within a residential area with the majority of properties being two storey houses set within spacious plots. In the two proposals that were dismissed at appeal, the Inspectors cited the effect of the proposal on the character and appearance of the surrounding area as a reason for refusal. These applications both related to new build developments towards the end of the garden, which lead to the separation of the plot. This application relates to the extension of an existing structure. Therefore whilst the scale of development is significant, the curtilage of the dwellinghouse will not be altered as with previous proposals and it relates to the extension of an existing structure as opposed to the development of a new building.

6.2.2 The development is largely screened from public vantage points by existing boundary treatments but is clearly visible from the first floor of a number of neighbouring properties. The neighbouring properties on Newdigate Road are generally of traditional design, being two storey brick built houses set within large plots. Whilst the adjacent properties which form Woodlands Close, off Cloverlands Drive, are newer having been built circa 2006, they are of traditional design with brick built elevations that are in keeping with the surrounding area.

6.2.3 The extended outbuilding is single storey with wood effect cladding on the elevations and wave tile steel-effect roofing. Whilst the appearance does not share design characteristics with neighbouring dwellings, this is no different to if an outbuilding was constructed without planning permission under Class E of Schedule 2, Part 1 of the Town and Country (General Permitted Development) Order 2015 whereby a building of a similar size and design could be erected.

6.2.4 The summerhouse and outbuilding extension are considered to be appropriate for the style of building. The design is therefore not considered to have a harmful impact on the character or appearance of the surrounding area.

6.3 Impact on tree

6.3.1 The development does not bring the structure any closer to the protected tree than it is at present, and therefore is not considered to have any further impact on the tree.

7 Discussions with applicant

7.1 This application was submitted following an ongoing Planning Enforcement case as the existing structure has been extended without the necessary planning permission. The applicant has claimed that he undertook the works without planning permission as he was under the impression that the works were covered

- under householder permitted development rights and did not require planning permission.
- 7.2 In accordance with the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 1, Class E, the provision within the curtilage of the dwellinghouse of any building or enclosure for a purpose incidental to the enjoyment of the dwellinghouse is permitted development and does not require planning permission. Development however, is not permitted if, among other conditions, the height of the building is above 2.5m within 2m of the boundary of the curtilage or if the eaves height of the building would exceed 2.5m. The extended outbuilding subject to this application does not comply with either of these conditions and therefore the development requires planning permission.
- 7.3 With this in mind, should planning permission for this structure be refused, there is a fall-back position to legitimise the structure as it stands which would in the view of the applicant result in a significantly worse impact on neighbouring properties than what he seeks to retain. These works would involve extending the structure to the south east, bringing it closer to No. 65 and No. 67, in order to bring the eaves height of the building down to 2.5m. He would also demolish the lower, brick built part of the outbuilding which is within 2m of the boundary of the dwellinghouse. Once these alterations have been carried out, the structure would be compliant with Class E of the Order and therefore planning permission would not be required.
- 7.4 The alterations detailed above would result in a larger structure than that which is the subject of this application, and the Council would have no control over its appearance. A sketched example of how this would appear is provided in Appendix 1.
- 7.5 Taking into account the alternative of this larger structure being developed within the plot, it is considered that the approval of the current structure would be preferable and would allow control over any further developments within the plot as it could be conditioned that no further works could take place to extend the dwelling or erect outbuildings or extensions or alterations to such without the written consent from the Council. This would provide the Council with some degree of control over any future extensions planned by the applicant, to protect the amenity of the neighbouring properties and retain the character and appearance of the area.
- 7.6 The applicant is fully aware that the outbuilding in its extended form cannot be used for residential purposes which are not ancillary to the enjoyment of the host dwelling without written permission from the Local Planning Authority by way of a formal planning permission. Taking this into account, it is not considered necessary to condition that the outbuilding cannot be used for residential purposes.

Recommendation

The Committee is asked to **RESOLVE** that planning permission be granted subject to the following conditions:

- 1. The development hereby permitted shall be retained in accordance with the Block Plan (1:250), and drawing number 17/829/01 (1:100); received by the Local Planning Authority on 25 April 2018.**
- 2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any Order revoking or re-enacting this Order, no extensions, enlargements or alterations shall be carried out to 65 Newdigate Road or any structure within its curtilage, which fall within Class A, B, C, D or E of the Order, without the prior written permission of the Local Planning Authority by way of a formal planning permission.**

Reasons

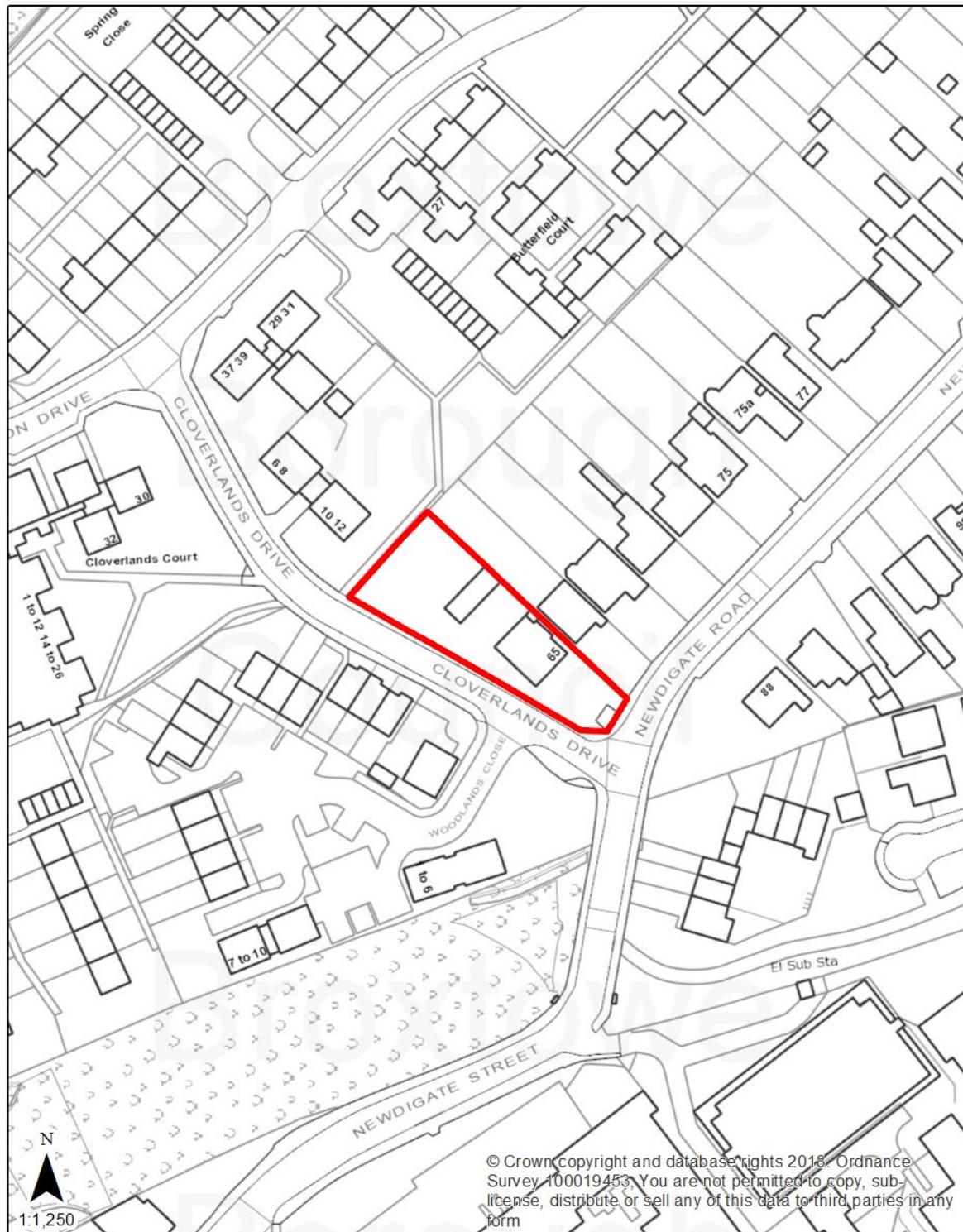
- 1. For the avoidance of doubt.**
- 2. In the interests of privacy and amenity for nearby residents and in accordance with the aims of Policy H9 of the Broxtowe Local Plan (2004) and Policy 10 of the Aligned Core Strategy (2014).**

Note to applicant

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 throughout the course of the application.

Background papers

Appendix 1 – Proposed works suggested by applicant under householder permitted development rights should this application be refused (Not To Scale).



Legend

 Site