

Report of the Chief Executive

**18/00729/FUL  
 CONSTRUCT TWO DWELLINGS  
 LAND TO THE REAR OF 53 KIMBERLEY ROAD, NUTHALL,  
 NOTTINGHAMSHIRE, NG16 1DA**

Councillor J M Owen requested this application be determined by the Committee.

1 Details of the Application

1.1 This application seeks permission to construct two dwellings on the land to the rear of 53 and 55 Kimberley Road. The two dwellings will be of a similar design and size, with each having the appearance of a single storey dwelling although they will have basement levels covering the same floor space as the ground floor. The dwellings will both have mono-pitched roofs with the west dwelling having a maximum height above ground level of 4m, sloping down to 3m, and the east dwelling having a maximum height above ground level of 3.8m, sloping down to 3m.

2 Site and Surroundings

2.1 The application site is positioned to the south of Kimberley Road, to the rear of No. 53 and 55. The two dwellings will be accessed via the existing private drive that runs between No. 53 and 55 and leads to Temple Lake House. The current use of the land on which the dwellings are proposed is garden land to the rear of the two dwellings on Kimberley Road.



Site access from Kimberley Road.



Rear garden of No. 55 Kimberley Road.



Land beyond the rear garden of No. 55 Kimberley Road, where the proposed dwelling on the west side of the site will be situated.



Photo showing proposed site for the two dwellings and drive from Temple Lake leading down to Kimberley Road.



Site of proposed dwelling on the east side of the site.



Rear garden of No. 53 Kimberley Road.



Temple Lake House to the south of the application site.

### 3 Relevant Planning History

- 3.1 In 1994, planning application 94/00560/OUT was refused permission for two detached bungalows to the rear of No. 53 and 55 Kimberley Road on the grounds that the proposal would constitute a piecemeal development in a backland location and would also fail to meet the access and parking standards of the Highways Authority. The applicant appealed the decision with the appeal being dismissed by the Inspector.
- 3.2 In 2004, planning application 04/00309/FUL was refused for a single detached dwelling on a section of land to the south of the current application site on the east side. At the time of the application permission had been granted for the construction of Temple Lake House. It was determined that the proposal would prejudice the setting of the approved dwelling and that the cumulative effect of both developments would result in an over intensive use of land that would provide insufficient amenity space for the occupiers of those dwellings.
- 3.3 In 2017, planning application 17/00029/FUL was refused by Planning Committee for the construction of two dwellings to the rear of No. 53 Kimberley Road. This proposal differed from the current proposal by virtue of the fact that both dwellings were proposed behind No. 53, and the application was for two dormer bungalows. The application was refused on the grounds that it would be an over intensive development which would result in an undesirable change to the character of the area, the development would create an un-neighbourly relationship which would result in significant adverse impact upon the amenity of the occupiers of the nearby properties and that it would have a significant adverse impact on highway safety.
- 3.4 The applicant appealed the decision and the appeal was dismissed in March 2018. In dismissing the appeal the Inspector considered the access to be sufficient to result in no highways safety concerns and that there would be no detrimental impact to any of the existing neighbouring properties through loss of privacy or noise. However, she considered that the proposal would result in a loss of the open, spacious nature of the built form along this section of Kimberley Road which would be of detriment to its character and appearance.

### 4 Policy Context

#### 4.1 **National policy**

- 4.1.1 The National Planning Policy Framework (NPPF) July 2018, outlines a presumption in favour of sustainable development, that planning should be planned, decisions should be approached in a positive and creative way and high quality design should be sought.

#### 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 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.
- 4.2.4 Policy 10 'Design and Enhancing Local Identity' states that all new developments should make a positive contribution, reinforce local characteristics and reduce the dominance of the motor vehicle. Developments will be assessed having regard to plot sizes and layouts, massing, scale and proportions and materials, architectural style and detailing.
- 4.2.5 Policy 11 'The Historic Environment' states that proposals and initiatives will be supported where the historic environment and their heritage assets are conserved and/or enhanced in line with their interest and significance. The proposed dwellings are not within the Conservation Area; however, they will be sited adjacent to it and therefore any potential impact should be considered.

### **4.3 Saved Policies of the Broxtowe Local Plan**

- 4.3.1 The Part 2 Local Plan has recently been examined. Until adoption, Appendix E of the Core Strategy confirms which Local Plan policies are saved. Relevant saved policies are as follows:
- 4.3.2 Local Plan Policy H7 'Land not allocated for housing purposes' states that small scale residential development within existing built-up areas will be permitted providing the residents of the new dwelling would have a satisfactory degree of privacy and amenity, that satisfactory arrangements can be made for access and parking and that the development would not result in an undesirable change in the character or appearance of the area. The development should not prejudice the potential for future development of a larger area and the development should not have an unacceptable effect on the privacy and amenity of the occupiers of nearby properties.
- 4.3.3 Local Plan Policy T11 states that planning permission will be granted for new development where appropriate provision is made for vehicle parking and servicing.

### **4.4 Part 2 Local Plan (Draft)**

- 4.4.1 The Part 2 Local Plan includes site allocations and specific development management policies. The draft plan has recently been examined, with the Inspector's report awaited. The representations on the plan included 12 no. representations to Policy 15, 11 no. representations in relation to Policy 17 and 11 no. representations in respect of Policy 23. Given that there remain outstanding objections to these policies with the Inspector's view on these not yet known pending her report, these policies can be afforded only limited weight.

- 4.4.2 Policy 15 'Housing Size, Mix and Choice' states 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.
- 4.4.3 Policy 17 'Place-making, Design and Amenity' refers to ensuring a satisfactory degree of amenity for occupiers of the new development and neighbouring properties.
- 4.4.4 Policy 23 'Policies affecting designated and non-designated heritage assets' states that proposals will be supported where heritage assets and their settings are conserved or enhanced in line with their significance.

#### **4.5 Nuthall Neighbourhood Plan**

- 4.5.1 The Nuthall Neighbourhood Plan was 'made' on 13 December 2018 following a 'yes' vote in the Neighbourhood Plan referendum. Policy 5 'Design and the Historic Environment' states that design of all new development should enhance and positively contribute to the character of the area in which it is located. The policies in the Neighbourhood Plan therefore carry full weight.

#### **5 Consultations**

- 5.1 The Highways Authority has no concerns in principle to the proposal, subject to conditions relating to the widening of the dropped vehicular footway at the access to the site off Kimberley Road, the widening of the drive, and the availability of the bin store. The Highways Authority has however noted that Building Control will need to assess the acceptability of the turning area for the fire engine which is in front of the window of the proposed dwelling on the west side.
- 5.2 The Conservation Adviser has not raised any objection to the proposal. He has stated that although the Conservation Area lies to the south and the land to the south accommodates two listed structures it is not considered that the scheme would be harmful to these heritage assets.
- 5.3 Consultation letters have been sent out to 15 members of the public including neighbouring dwellings and parties who commented on the previous planning application (17/00029/FUL). A site notice was also posted on a lamppost outside No. 55 Kimberley Road on 13 November 2018. 7 responses have been received in respect of this application with 4 letters of objection, 2 letters of support and 1 letter raising no objection. The reasons for objection can be summarised as follows:
- Design not in keeping with the character of the area.
  - Increased vehicle and traffic generation.
  - High walls at the site entrance creating highway safety issues.
  - Stone wall to the front of the site adjoining Kimberley Road has been removed in part and replaced with a timber fence.
  - Trees in front of No. 53 Kimberley Road have been removed.
  - No turning space for a refuse vehicle.
  - Existing views over the garden areas up to Edward Road and the old temple wall will be ruined.

- Loss of privacy for neighbouring properties.
- Parking would cause noise pollution and dust to neighbouring properties.
- Light from the development will impact on the rural tranquillity of the area.
- The development would have a harmful impact on the Green Belt and Conservation Area.

The reasons for support can be summarised as follows:

- The development will make good use of derelict land.
- The access will be improved.
- It will improve the outlook.

## 6 Appraisal

6.1 The main considerations for this proposal are the impacts on neighbouring amenity, the design and appearance of the dwellings, the impact on highways safety, and the character and appearance of the area.

### 6.2 Amenity

6.2.1 The proposed dwellings will be single storey bungalows, both with substantial basement levels to provide additional space. At ground floor level each dwelling will have three bedrooms, one bathroom and an open plan kitchen and living room. The living space provided by the bedrooms and living rooms will be of a sufficient size and the size and position of the windows will ensure an acceptable amount of natural light is able to enter the rooms.

6.2.2 Both dwellings will be set within plots that provide an adequate amount of private outdoor amenity space with the main gardens being positioned to the south of the proposed bungalows and therefore not being directly overlooked by the dwellings on Kimberley Road. Whilst Temple Lake House is positioned to the south of the bungalows the garage is positioned closest to the application site, with the principal views from Temple Lake House being to the south and not over the proposed dwellings.

6.2.3 Overall it is considered that the proposed dwellings will provide the occupants with a satisfactory standard of living accommodation as well as an acceptable amount of private outdoor amenity space.

6.2.4 The proposed bungalow on the west side of the site will be approximately 8m from the boundary to the north, adjoining No. 55 Kimberley Road. The maximum ridge height of the dwelling at 4m, along with the distance to the boundary, and taking into account the distance between the rear Of No. 55 and the boundary of approximately 28m, is considered acceptable to ensure it will not result in an overbearing impact on No. 55 to the north. The proposed dwelling will be single storey and the existing boundary treatment of a circa 1.8m high fence will be retained to the north. Therefore it is not considered that the proposal will result in a loss of privacy for No. 55.

6.2.5 The west dwelling will be positioned approximately 1.5m, from the west boundary of the site, adjoining the rear portion of the garden of No. 57 Kimberley Road. The

height of the dwelling closest to the boundary will be 3m and it will not be directly in line with any dwellings to the west. The Old Orchard, 7B Edward Road, adjoins the west boundary but is positioned to the south of the proposed dwelling, and taking into account the separation distance of approximately 7.5m it is not considered that it will be affected to an unacceptable degree.

- 6.2.6 The proposed bungalow on the east side of the site will be approximately 12m, from the boundary to the north adjoining No. 53 Kimberley Road. The rear elevation of No. 53 is approximately 23m from the boundary giving it an acceptable separation distance from the proposed dwelling in terms of any impact on amenity.
- 6.2.7 The proposed dwelling will be approximately 1.5m from the east boundary of the site, adjoining the rear portion of the garden of No. 51 Kimberley Road. The dwelling has been design to slope down towards the adjoining boundary, meaning the lowest part of the roof at 3m will be closest to the boundary. No. 37 Kimberley Road is to the east of the dwelling and will be more than 30m from the side elevation, which is considered sufficient to ensure the proposed dwelling will not have any impact on the amenity of the occupiers of this dwelling, especially considering its single storey design.
- 6.2.8 To the south of the application site is Temple Lake House, which at its closest point will be approximately 14.5m from the site boundary and 28.5m from the south elevation of the east dwelling. Temple Lake House is designed with its garage on the east side of the dwelling closest to the application site, with the principal part of the dwelling therefore being further removed from the proposed dwellings. Taking this into account it is not considered that the proposed dwellings will have an unacceptable impact on the amenity of the occupiers of Temple Lake House.
- 6.2.9 Objections have been raised on the grounds that noise and pollution generated by additional vehicles at the new dwellings would have a harmful impact on neighbouring properties. Taking into account the existing enclosed nature of the access, the limited number of additional vehicles likely to be generated by two additional dwellings, and the likely speed of the vehicles on what is a well maintained private drive, it is not considered that unacceptable levels of noise are likely to be generated.
- 6.2.10 Whilst the previous application at the site (17/00029/FUL) was refused permission with adverse impact on neighbouring amenity being cited as one of the reasons, on appeal the Inspector did not consider that the proposal would have had an unacceptable impact on neighbouring amenity. The current proposal has been amended considerably from the previous application, with a key change resulting in two single storey dwellings, as opposed to two dormer bungalows which would have had higher roofs. Taking into account the comments previously made by the Inspector, and the amendments made to the proposal since the previous application it is considered that the proposed dwellings would not have a harmful impact on the amenity of neighbouring dwellings.

### 6.3 Character and Appearance of Area

- 6.3.1 The application site is located within an established residential area. The site lies within a group of dwellings which benefit from substantial rear gardens. There are a small number of outbuildings in the rear gardens of the surrounding dwellings; however, they are generally sited closer to their host dwellings and as such there is a sense of openness and space across the rear gardens which is currently experienced across the application site.
- 6.3.2 The application site is formed from a substantial portion of the rear gardens of both No. 53 and 55 Kimberley Road. No. 53 would retain a garden of approximately 20m in length, and No. 55 would retain a garden of approximately 28.5m in length. This compares to the gardens of No. 51 to the east which is approximately 60m in length and No. 57 to the west which is approximately 57m in length.
- 6.3.3 As highlighted by the Inspector when determining the appeal for the previous application, backland development is not the prevailing form of development in the immediate surrounding area. The presence of Temple Lake House and The Old Orchard has introduced some residential development in this part of Kimberley Road. However, the Inspector noted that the siting of these properties generated a stronger relationship with Edward Road, assisted to a degree by the vehicular access to Edward Road, rather than Kimberley Road. The same can also be said for the new dwelling which has been granted planning permission (18/00026/FUL) to the rear of No. 9 Edward Road.
- 6.3.4 In relation to the previous application the Inspector noted that as a consequence of the siting of the two dwellings, they would introduce permanent residential uses into the rear garden area. The surrounding character is defined by the pattern of development, the length of the rear gardens and the relationship of the dwellings and spaces. The surrounding area is low density and that together with the pattern of development is part of the character. The Inspector noted that the presence of 2 additional dwellings in the proposed location would interrupt the sense of openness and spaciousness which arises from the large rear gardens of the existing dwellings in this part of Kimberley Road. Taking this into account the Inspector found that the introduction of an additional two dwellings within the rear garden of No. 53 would be harmful to the character of the surrounding area.
- 6.3.5 The current proposal has been amended considerably from the previous application. Notably there will now be one dwelling to the rear of No. 53, with the second dwelling being positioned to the rear of No. 55. The aim here appears to be to rectify the Inspector's concern that the proposal by significantly reducing the length of the garden at No. 53 will result in a form of development that is out of keeping with the character of the area. For the current proposal No. 53 will retain a garden that is 20m long, compared to 14m under the previous proposal. Furthermore the single storey design of the new dwellings with reduced height flat roofs is aimed at retaining an open rear aspect for the dwellings along Kimberley Road, as stated in paragraph 9.1 of the Design and Access Statement.
- 6.3.6 Despite the clear differences between the current proposal and the previously refused proposal, it is not considered that this application succeeds in overcoming



the issues identified by the Inspector in respect of the development of two dwellings in this location. The presence of the two dwellings would introduce permanent residential uses to the rear gardens of No. 53 and 55 Kimberley Road, which would interrupt the sense of openness and spaciousness which arises from the rear gardens of the existing dwellings in this part of Kimberley Road. At 20m and 28.5m respectively the rear gardens of No. 53 and 55 Kimberley Road will be significantly shorter in comparison to the majority of dwellings in this section of Kimberley Road, including the adjoining dwellings. The proposal would therefore result in a form of development that would be out of keeping with the character of the surrounding area.

#### 6.4 Design

6.4.1 The proposed dwellings have been designed to be in keeping with the surrounding dwellings, whilst also having a contemporary element to reflect modern architectural trends. The elevations will be a combination of brickwork to match the neighbouring Temple Lake House, with timber cladding reflecting the contemporary aspect. The dwellings provide a suitable amount of living accommodation and have been designed to ensure the principal living rooms have access to an acceptable amount of daylight.

6.4.2 Overall it is considered that the principle of the design of the dwellings would be acceptable. However, by virtue of the siting of the proposed dwellings within the rear gardens of No. 53 and 55 Kimberley Road the design of the scheme as a whole is considered to have a harmful impact on the character of the surrounding area.

#### 6.5 Highway Safety

6.5.1 The application site will be accessed via the existing private drive that runs between No. 53 and 55 Kimberley Road and up to Temple Lake House. As part of the proposal the existing access will be widened to 5.1m to allow two vehicles to pass each other and stand clear of the highway. The proposal would offer satisfactory on-site parking provision for the two dwellings.

6.5.2 The Highways Authority has not raised any objections in relation to the proposal, although they have highlighted that Building Control will need to assess the acceptability of the turning area for the fire engine which is in front of the window of the proposed dwelling. However, as the site does incorporate turning space for emergency vehicles to exit in a forward gear it is not considered that a refusal on this basis could be sustained at appeal.

6.5.3 Whilst details of this application differ to the previous proposal, the concept of constructing two dwellings off the same access remains the same. The matter of highway safety was considered during the appeal process for the previous application by the Inspector, who found that there would be no adverse effect on highways or pedestrian safety.

6.5.4 Overall it is considered that there would be no significant adverse effect on highway or pedestrian safety.

## 7 Conclusion

- 7.1 It is not considered that the proposed dwellings will have an unacceptable impact on neighbouring amenity or highway safety. However, it is considered that the presence of the two dwellings would introduce permanent residential uses to the rear gardens of No. 53 and 55 Kimberley Road, which would interrupt the sense of openness and spaciousness which arises from the long rear gardens of the existing dwellings in this part of Kimberley Road.
- 7.2 Taking this into account it is considered that the proposal fails to overcome the concerns of the Inspector in relation to planning application 17/00029/FUL, which is a material consideration in the determination of this application. With this in mind it is recommended that planning permission for this application should be refused.

### **Recommendation**

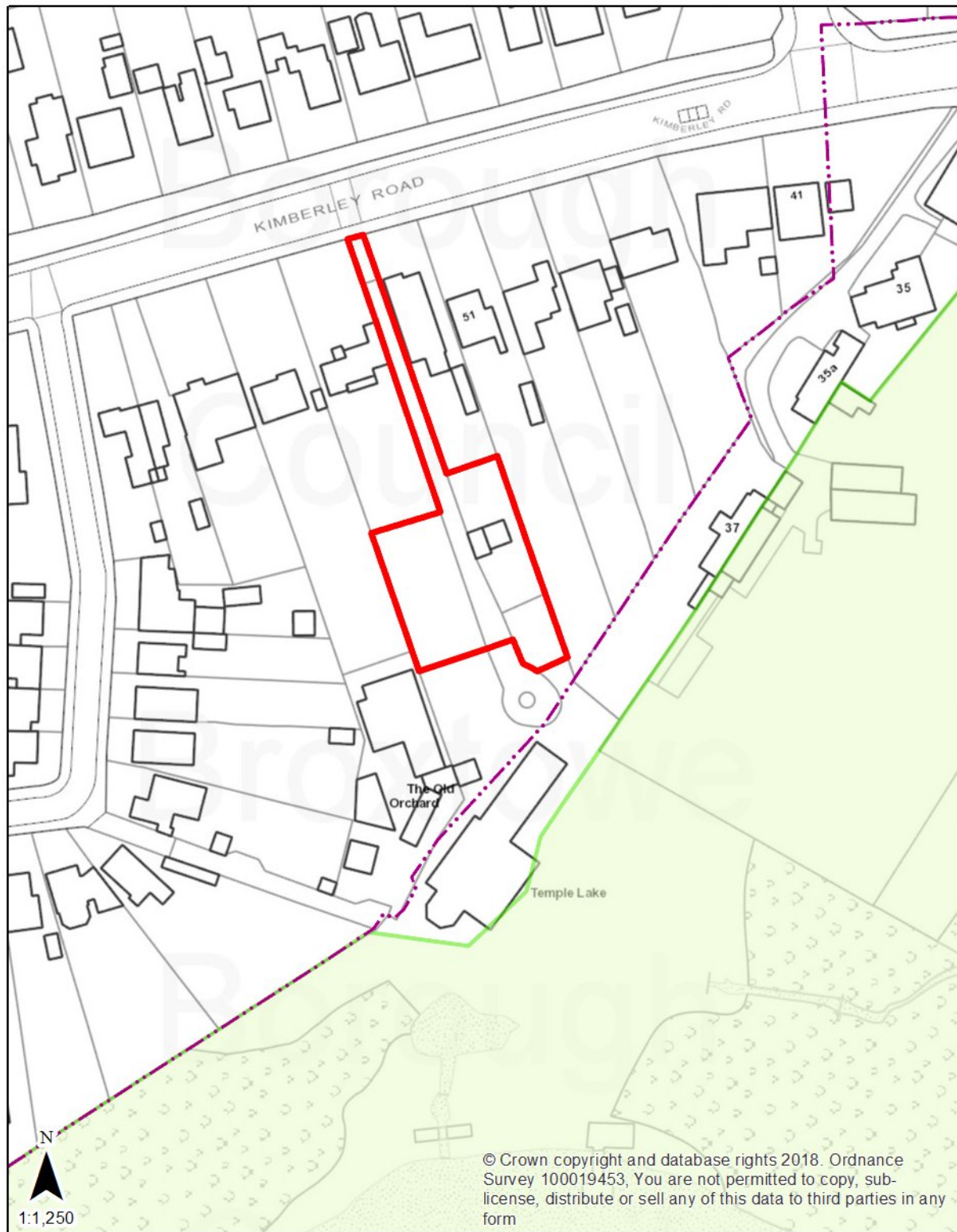
**The Committee is asked to RESOLVE that planning permission be refused for the following reason:**

**The proposed scheme will result in two additional dwellings within the rear gardens of No. 53 and 55 Kimberley Road, introducing a permanent residential use which would interrupt the sense of openness and spaciousness which arises from the long rear gardens of the existing dwellings in this part of Kimberley Road. The proposal would therefore have a harmful impact on the character of the surrounding area contrary to the aims of Policy H7 of the Local Plan (2004), Policy 10 of the Aligned Core Strategy (2014) Draft Part 2 Local Plan (2017) Policy 17 and Nuthall Neighbourhood Plan (2018) Policy 5.**

### **Note to Applicant**

**The Council has acted positively and proactively in the determination of this application by communicating with the agent throughout the course of the application.**

Background papers  
Application case file



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**Legend**

-  Site
-  Conservation Areas (Local Plan)
-  Green Belt (Local Plan)