

**Report of the Chief Executive**

<b>APPLICATION NUMBER:</b>	<b>23/00895/FUL</b>
<b>LOCATION:</b>	<b>Garden At 55 Mansfield Road Brinsley Nottinghamshire NG16 5AF</b>
<b>PROPOSAL:</b>	<b>Construct detached single storey dwelling</b>

The application is brought to the Committee at request of Councillor M Radulovic

1. Purpose of the Report

1.1 The application seeks full planning permission for the construction of a three-bedroom dwelling with an attached garage, solar panels on the southern roof plane, with off road parking and widening of the existing access to the site and to 55 Mansfield Road Brinsley.

2. Recommendation

The Committee is asked to resolve that planning permission be refused as it is considered that the proposal would have a detrimental impact on the openness of the Green Belt.

3. Detail

3.1 The application seeks full planning permission to construct a detached single storey three-bedroom dwelling with an attached garage on a parcel of land that has recently been granted a lawful development certificate for to the area of land to be classed as garden land within the curtilage of 55 Mansfield Road, 23/00376/CLUE refers.

3.2 The detached bungalow will be positioned within the centre of the plot, with the vehicular access being to the south east of the site leading to an area of off-road parking to the principal elevation, and to the west of the site will be an area of land designated as garden area.

3.3 The site lies within the Nottinghamshire Green Belt where Policy 8 of the Part 2 Local Plan states that applications for development in the Green Belt will be determined in accordance with the National Planning Policy Framework (NPPF). Paragraph 154 of the NPPF states that the construction of new buildings as inappropriate in Green Belt unless exceptions apply, specifically limited infilling in villages. Infilling is defined as being where there is built development on each side of the site and not open countryside.

3.3 The design, massing, scale and proportion along with the style would not be out of character with the area, subject to the materials being conditioned and the boundary treatment along the highway and the boundary between the site and 55 Mansfield Road to secure privacy.

- 3.4 It is considered the site is not an infill parcel of land within the village of Brinsley and so the proposal to create a single storey detached dwelling with off road parking would not comply with paragraph 154 e) of the NPPF and Policy 8 of the Part 2 Local Plan.

4. Financial Implications

- 4.1 The comments from the Head of Finance Services were as follows:

There are no additional financial implications for the Council with the costs/income being within the normal course of business and contained within existing budgets. Any separate financial issues associated with S106s (or similar legal documents) are covered elsewhere in the report.

5. Legal Implications

- 5.1 The comments from the Head of Legal Services were as follows: The Legal implications are set out in the report where relevant, a Legal advisor will also be present at the meeting should legal considerations arise.

6 Data Protection Compliance Implications

- 6.1 Due consideration has been given to keeping the planning process as transparent as possible, whilst ensuring that data protection legislation is complied with.

7. Background Papers:

None

**APPENDIX****1. Details of the application**

- 1.1 This application seeks permission to construct a single storey detached three-bedroom dwelling with an attached garage on a parcel of land recently granted a lawful development certificate as garden land for 55 Mansfield Road. To the south elevation would be two sets of solar panels and to the west would be the vehicular access to the site. The access is to be shared with 55 Mansfield Road.
- 1.2 The dwelling is sited in the middle of the plot and measures 21.6m in width, 7.3m in length to the western elevation, 6.3m to the eastern elevation (garage) and a lounge projection 5.6m and width of 6m creating a T shape dwelling with an outlook facing south to maximise the view over the open countryside.
- 1.3 No details of the materials proposed to construct the detached three-bedroom dwelling have been proposed. During determination of the application negotiations have taken place to overcome the objections raised by the Coal Authority, Nottinghamshire County Council Highways, Nottinghamshire County Council LLFA and Environment Agency.

**2. Site and surroundings**

- 2.1 The application site is a small area of land authorised as garden use associated with to 55 Mansfield Road and is separated from the open fields to the south and west by a small post and rail fence, allowing views across the fields. To the north lies 55 Mansfield Road, a detached two storey dwelling with a small garden area circling around the dwelling. To the south east of the site is the access to 55 Mansfield Road and the fields located to the south and west.
- 2.2 When approaching the site from the south along Mansfield Road, from Eastwood, it is noted that there is no development on the western side of the highway and as such this provides a rural open character when approaching Brinsley. The existing dwelling 55 Mansfield Road and 57 to 59 Mansfield Road are the only development on this side of the road until arriving at the main village.
- 2.3 To the east of the highway is a car park providing parking for access to the open space (Brinsley Headstock), and Brinsley Lodge, a public house / restaurant, which is the first built form on the eastern side of the highway leading into the main part of the village.
- 2.4 It is acknowledged that a planning application has been granted for outline for two dwellings to the north west of the site (to the rear of 55 Mansfield Road), 23/00509/OUT refers, this is an outline application with some matters reserved. The Local Planning Authority granted consent for outline on the basis of limited infill, due to the location of 55 Mansfield Road to the south east of the site and 57 and 59 Mansfield Road to the north west of the site. It should also be

acknowledged that there is an existing double garage with an attached block building and three timber outbuildings within the site that has obtained outline planning permission. The Local Planning Authority considered that there was no impact on the openness of the Green Belt and classed that development as limited infill which complied with the NPPF and Green Belt policies.

### **3. Relevant Planning History**

- 3.1 In 1989 an application was refused for the parcel of land to domestic garden (89/00210/FUL refers), in 2013 planning permission was granted for change of use of land to residential to form a new driveway and access for 55 Mansfield Road (13/002/FUL refers). In 2023 a Certificate of Lawfulness for the existing 'garden land' to be included within curtilage of dwelling at 55 Mansfield Road was issued and as such the authorised use of the site is as garden land.

### **4. Relevant Policies and Guidance**

#### **4.1 Broxtowe Aligned Core Strategy 2014:**

The Council adopted the Core Strategy (CS) on 17 September 2014.

- Policy A: presumption in Favour of Sustainable Development
- Policy 3: The Green Belt
- Policy 8: Housing, size, mix and choice
- Policy 10: Design and Enhancing Local Identity

#### **4.2 Part 2 Local Plan 2019**

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

- Policy 8: Development in the Green Belt
- Policy 15: Housing Size, Mix and Choice
- Policy 17: Place-Making, Design and Amenity
- Policy 19: Pollution, Hazardous Substances and Ground conditions
- Policy 21: Unstable Land
- Policy 31: Biodiversity Assets

#### **4.3 National Planning Policy Framework (NPPF) 2023**

- Section 2 – Achieving Sustainable Development
- Section 5 - Delivering a sufficient supply of homes
- Section 4 – Decision-making
- Section 11 - Making effective Use of Land
- Section 12 – Achieving well-designed places
- Section 13 - Protecting the Green Belt
- Section 14 - Meeting the challenge of climate change, flooding and coastal change
- Section 15 - Conserving and enhancing the natural environment

## 5. Consultations

- 5.1 **Broxtowe Borough Council – Environmental Health** – The Environmental Health Officer has assessed the application and has not raised any objection to the application subject to conditions and informatives on hours of construction, burning of materials on site and construction/demolition method statement.
- 5.2 **Broxtowe Borough Council – Refuse and Waste** – The Environmental Coordinator has assessed the information and has not raised any objection to the application subject to an informative to ensure the correct bin provision is provided and presented adjacent to the highway on bin collection days.
- 5.3 **Nottinghamshire County Council Highways Authority** – The Highways Authority has assessed the submitted information and requested additional information regarding the visibility from the access and the swept path for the site.

Following the submission of additional information, the Highways Authority stated that they were aware of the speed survey completed in regarding to the nearby planning permission, 23/00509/OUT refers, and amended the visibility splay required distances, but this would require some of the existing hedge (in the applicant's ownership) to be removed. To secure the splay and ensure no re grown and restrict the splay, a plan and condition will be required.

The Highway Authority states that the extension to the existing access misses the point regarding two way flows on a track and requires good will of users and is not ideal. The Highway Authority states that a refusal on this ground could not legitimately be defended at an appeal, subject to the improved visibility splay and other conditions. The Highway Authority therefore do not wish to raise an objection, subject to conditions demonstrating until visibility splays of 2.4m x 51m (north) and 2.4m x 63m (south), driveway to be implemented before the development is commenced on site the dwelling and an informative relating to complying to Highways Act 1980 (as amended).

- 5.4 **Nottinghamshire County Council - The Lead Local Flood Authority (LLFA)**  
The LLFA has assessed the information submitted and considers the application meets the requirements for the LLFA to comment on the application, but has stated the following:
- The development should not increase flood risk to existing properties or put the development at risk of flooding.
  - Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
  - SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
  - Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (eg

culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.

- 5.5 **Environment Agency (EA)** – The EA has assessed the information submitted and states they object to the application as the application is not supplied with adequate information to demonstrate that the risk of pollution posed to surface water quality can be safely managed and on this basis the application should be refused.

The proposal fails to comply with paragraph 174 of the National Planning Policy Framework which states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution.

In this case we consider that the proposed development may pose an unacceptable risk of causing a detrimental impact to surface water quality because the:

- applicant has failed to indicate the means of disposal of foul/surface water.
- applicant has failed to provide a method statement detailing how surface water run-off will be dealt with during the construction phase of this development.

Means of disposal of foul/surface water and a method statement for how surface water run-off will be dealt with during the construction phase will need to be addressed to overcome the EA's objection.

#### **Second set of comments from the EA**

The EA considered the additional information provided by the agent, following the initial comments, and removed their objection subject to a condition relating to a scheme to treat and remove suspended solids from surface water run-off during construction works. This condition would be required, due to the development being located on a greenfield site.

- 5.6 **Coal Authority (CA)** – The CA has assessed the information submitted and states that the site falls within an area defined as High Risk Area. The Coal Authority previously objected to this planning application, as the required Coal Mining Risk Assessment Report (CMRA) had not been submitted as part of the application.

The agent provided a CMRA (December 2023, prepared by Erda Associates Ltd), which accompanied the planning application, the content of which is able to discount any undue stability risks posed by the recorded mine entry due to its distance away. The report does acknowledge potential stability issues associated with the former open cast extraction and confirms that the proposed development may need to incorporate bespoke foundations, which will be a matter for the Building Regulations process.

Based on the mitigation strategy proposed within the CMRA considering the coal mining legacy issues which are associated with the site, the CA raises no objections subject to the proposed measures being undertaken. The CA commented that the local authority should seek their own technical advice on mine gasses within the area.

The CA considers that the information now submitted in support of this planning application is broadly sufficient for the purposes of the planning system and meets the requirements of the planning system in demonstrating that the application site is, or can be made, safe and stable for the proposed development.

The CA would expect the proposed development to be carried out in accordance with the mitigation strategy included in the CMRA. The CA therefore withdraws its objection to this planning application on the basis of the information submitted.

- 5.7 Ward Councillors and Parish Council were consulted and no comments have been received aside from the request to committee.
- 5.8 Four neighbours were consulted on the application and a site notice was displayed. There have not been any comments have been received.

## **6. Assessment**

- 6.1 The main issues for consideration are whether or not the principle of the development is acceptable in the Green Belt, whether access to and from the highway is acceptable, whether there would be an increase in flooding to existing properties, whether the development would contribute to unacceptable levels of water pollution, whether the site meets the requirements to be safe and stable, impact on the upon residential amenity, and the design of the proposal.

### **6.2 Green Belt and Principle of Development**

- 6.2.1 The application site is situated within the Green Belt and therefore the principle of the development is subject to whether or not it complies with local and national Green Belt policy. Broxtowe's Part 2 Local Plan (2019) Policy 8 states that development in the Green Belt will be determined in accordance with the NPPF. Paragraph 142 of the NPPF states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence and inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

- 6.2.2 Paragraph 153 of the NPPF continues that when considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations
- 6.2.3 Paragraph 154 of the NPPF states that a Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt, although one exception to this is the limited infilling in villages.
- 6.2.4 The site is not considered to be infilling within the village of Brinsley, as there is only development on one side of the site, this being the dwelling and garden area for 55 Mansfield Road, north of the site. To the south and west lies open country side with views towards Eastwood. As such the development cannot be considered as 'infill' given the lack of built development to the south and west.
- 6.2.5 No 'very special circumstances' have been demonstrated within the submitted information.
- 6.2.6 It is considered that no 'very special circumstances' have been demonstrated that would outweigh the harm caused to the openness of the Green Belt and the site is not considered to be an infill site and therefore the application should be refused on this basis.

### **6.3 Amenity**

- 6.3.1 Policy 10 (f) states that the impact of a development on neighbour amenity will be a consideration. Policy 17 (4d) states that any development should not cause an unacceptable loss of amenity for the occupiers of neighbouring properties.
- 6.3.2 To the north of the site lies 55 Mansfield Road, in ownership of, and occupied by, the applicant, and both the site and 55 Mansfield Road will share a vehicular access that runs to the south east of the site. No details have been provided regarding the boundary treatments specifically to the northern boundary. Given the position of the proposed dwelling and the dwelling to the north it is considered that the proposal would not have any significant impact on the living conditions of this dwelling in terms of loss of light, outlook or privacy, subject to a condition securing appropriate boundary treatments.
- 6.3.3 To the south and west is open countryside and to the east is the access track for 55 Mansfield Road and the public highway, and as such there would be no impact on residential amenity.

### **6.4 Design and visual amenity**



- 6.4.1 Policy 10 of the ACS section 2 states that developments will be assessed in terms of d) massing, scale and proportion and e) materials and style. Policy 17 of the Part 2 Local Plan part 4 a) states that development should be of a size and design that makes a positive contribution to the appearance of the area.
- 6.4.2 The proposed single storey dwelling is to be sited centrally within the site with the main rooms facing south of the site to maximise the views and sun. The dwelling will create three bedrooms, one annotated as a study but given the size could be classed as a bedroom. The submitted elevations show the attached garage to read as subordinate to the dwelling reducing the bulk and mass, there is also dog tooth detailing to the eaves and arched lintels and cils to the window openings. The application form states the materials are annotated on the submitted plans but this information is missing, however, these details could be secured by condition, should planning permission be otherwise found to be acceptable.
- 6.4.3 The design, massing, scale and proportion along with the style would not be out of character with the area, subject to the materials being conditioned, but the position of the dwelling being side on to the highway and set within the middle of the site would be out of character with the pattern of development along Mansfield Road. The dwelling is set away from the highway and with the principal elevation facing towards the open countryside and not the highway would be out of character with the area. It is acknowledged that 55, 57 and 59 Mansfield Road are side on to the highway but they are located closer to the boundary and keeps the development close to the highway maintaining a pattern and character of the area.
- 6.4.4 The position of the proposed dwelling, being located south of 55 Mansfield Road, where it would be viewed as an incongruous addition within the streetscape, and would be considered out of character with the pattern of development within the area and as such fails to comply to Policy 17 of the Part 2 Local Plan and the NPPF.

## **6.5 Environment Agency**

- 6.5.1 Paragraph 174 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution.
- 6.5.2 The EA considered the submitted and the additional information that resulted in the removal their previous objection, subject to a condition relating to a scheme to treat and remove suspended solids from surface water run-off during construction works. This condition is required, due to the development being located on a greenfield site.

## **6.6 Flooding**

- 6.6.1 Paragraph 173 of the NPPF states that When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment<sup>59</sup>. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that within the site, the most vulnerable development is located in area of lowest flood risk, incorporates sustainable drainage systems (SUDS) unless there is clear evidence that this would be inappropriate.
- 6.6.2 The Lead Local Flood Authority (LLFA) has assessed the information submitted and considers the application meets the requirements for the LLFA to comment on the application, but has stated that the development should not increase flood risk to existing properties or put the development at risk of flooding. Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location. They consider that SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
- 6.6.3 The LLFA states that any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (eg culverting / pipe crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.
- 6.6.4 The LLFA has not raised any objection to the application but considers that a suitable condition should be attached, following discussions with the LLFA.

## **6.7 Coal Authority**

- 6.7.1 Policy 21 of the ACS states that within the Coal Authority's 'Development High Risk Area' permission for no householder development will only be granted if it is demonstrated that the site is, or can be made, safe and stable.
- 6.7.2 Paragraph 190 of the NPPF states that Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner
- 6.7.3 The CA assessed the CMRA dated December 2023 and prepared by Erda Associates Ltd which is able to discount any undue stability risks posed by the recorded mine entry due to its distance. The report does acknowledge potential stability issues associated with the former open cast extraction and confirms that the proposed development may need to incorporate bespoke foundations, which will be a matter for the Building Regulations process.
- 6.7.4 The CA stated that the Local Planning Authority should seek their own technical advice on mine gases within the area.
- 6.7.5 The CA would expect the proposed development to be carried out in accordance with the mitigation strategy included in the CMRA. The CA

therefore withdraws its previous objection to this planning application on the basis of the information submitted.

**6.8 Highways**

6.8.1 Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

6.8.2 The Highways Authority has assessed all the submitted information and has not raised any objection to the application subject to conditions regarding visibility splay and the standard conditions for residential developments.

**7. Planning Balance**

7.1 The benefits of the proposal would be in the provision of one new dwelling, which would not have a detrimental impact on neighbour amenity and is acceptable in design terms. Subject to conditions, the dwelling would not have an impact on highway safety, contamination and flooding.

7.2 The negative impact is that the development would be inappropriate within the Green Belt, have a detrimental impact on the openness of the Green Belt and is not classed as an infill plot. The position of the dwelling south of 55 Mansfield Road Brinsley is considered out of character with the area due to the siting being positioned within the centre of the site, set away from the highway and as a result is considered out of character with the pattern of development within the area

7.3 On balance, as no very special circumstances have been demonstrated, the negative impacts are therefore considered to carry sufficient weight to outweigh the benefits of the proposal.

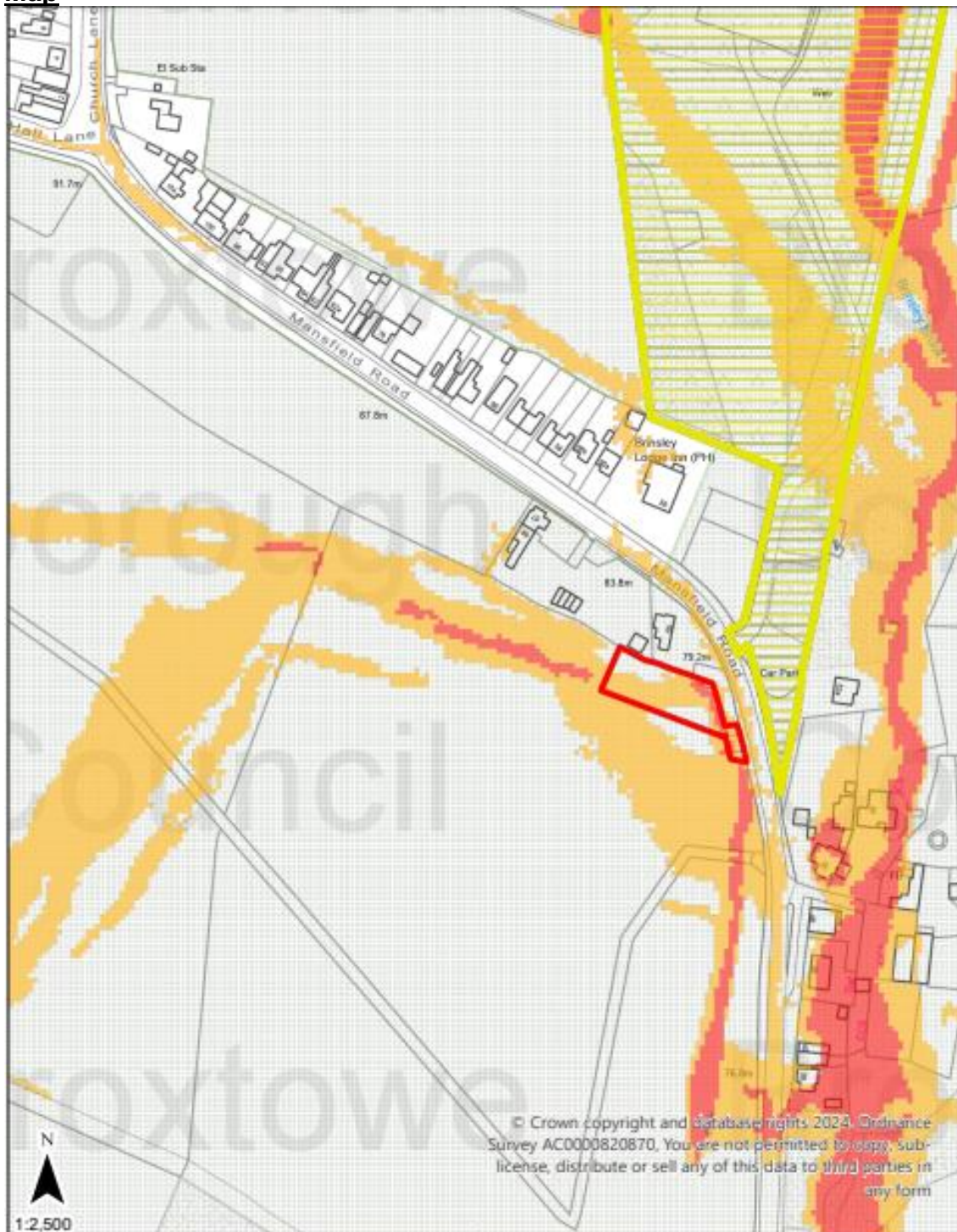
**8. Conclusion**

8.1 The proposal is considered to be inappropriate development that is harmful to the openness of the Green Belt.

<b><u>Recommendation</u></b>	
<b>The Committee is asked to RESOLVE that planning permission be REFUSED for the following reasons:</b>	
<b>1.</b>	<b>The site lies within the Nottinghamshire Green Belt, where in accordance with paragraph 152 of the NPPF, inappropriate development is by definition harmful and should not be approved except in very special circumstances. The proposal constitutes inappropriate development as the detached dwelling would not be classed as an infill development and as a result would have a detrimental impact on the openness of the Green Belt. There have been no special circumstances demonstrated and the proposal is</b>

	<p>therefore contrary to Policy 8 of the Broxtowe Part 2 Local Plan (2019) and paragraph 152 and 154 e) of the National Planning Policy Framework (2023) and there are no other material considerations that justify treating this proposal as an exception.</p>
2.	<p>The position of the proposed dwelling south of 55 Mansfield Road Brinsley is considered out of character with the area due to the context, where it would be viewed as an incongruous addition within the streetscape, and as a result is considered out of character with the pattern of development within the area and as such fails to comply to Policy 17 of the Part 2 Local Plan and the NPPF.</p>
	<p><b>NOTES TO APPLICANT</b></p>
1.	<p>The Council has acted positively and proactively in the determination of this application by working to determine it within the agreed determination timescale, allowing an Extension of Time to overcome the objections from consultees.</p>

Map



Legend

-  Green Belt
-  Surface Water: 1 in 1000
-  Surface Water: 1 in 100
-  Surface Water: 1 in 30
-  Local Nature Reserves
-  Site

Photographs



View from pedestrian gate looking South



View looking north and north west from gate



View towards 55 Mansfield Road



Garden area forward of the principal elevation of 55 Mansfield Road



View down access drive to access to Mansfield Road



View looking toward hardstanding for 55 Main road



View from vehicular access looking South along Mansfield Road



View from next to vehicular access looking north

**Plans (not to scale)**

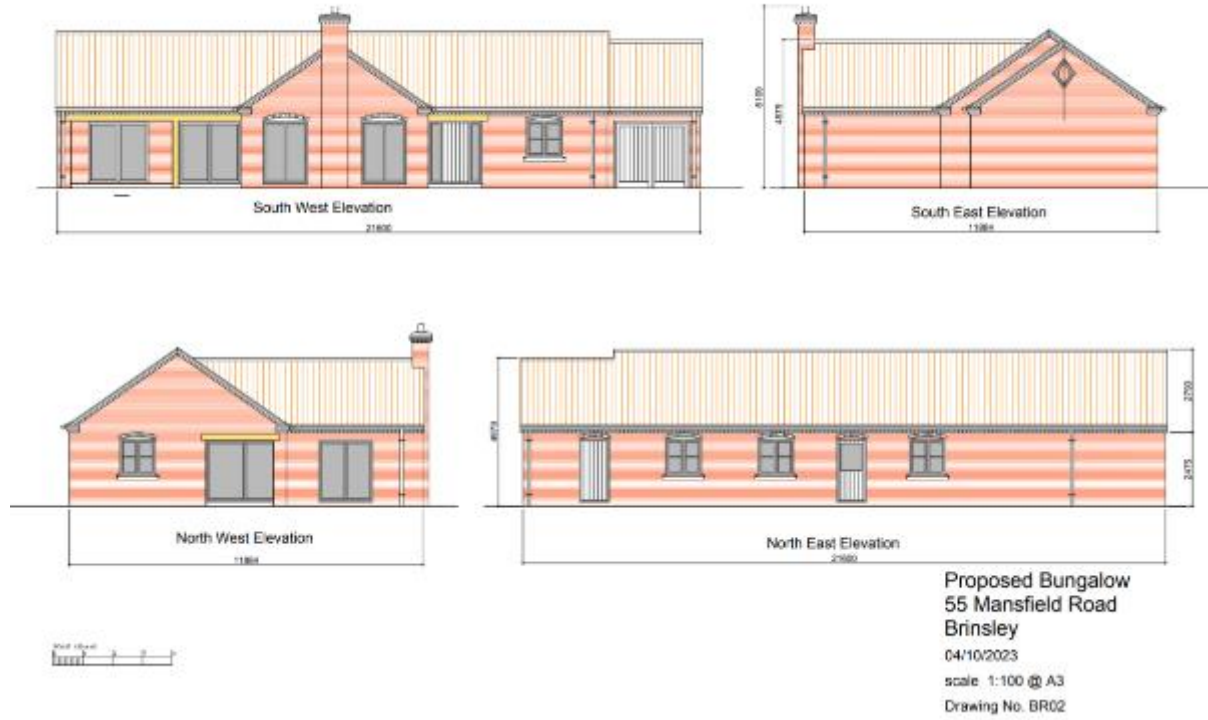


Proposed site plan



Proposed floor plan

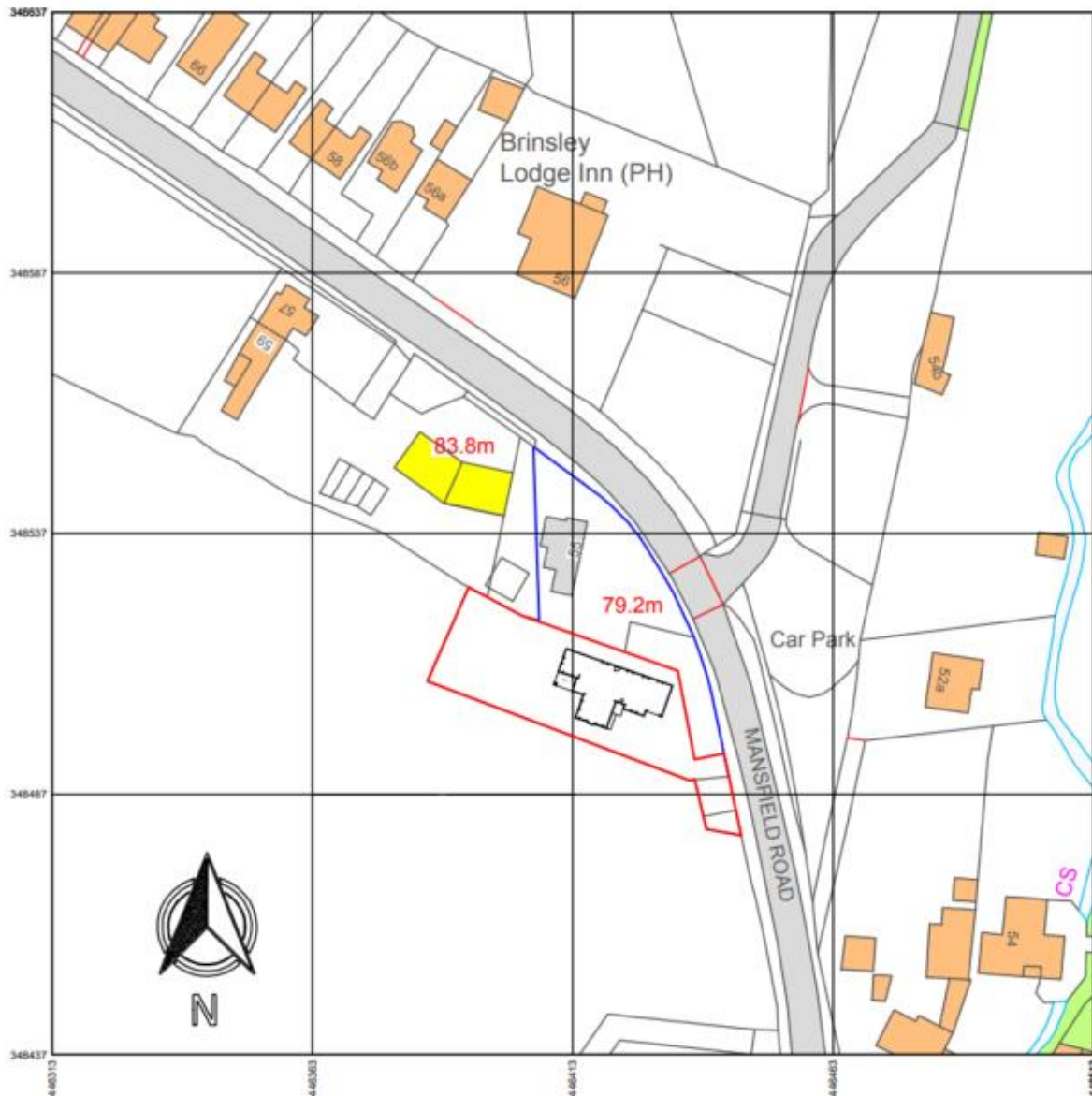




Proposed elevations



Proposed block plan with measurements to boundary



Proposed site location plan