

Report of the Chief Executive

Application Number:	24/00091/FUL
Location:	Land Between 3 and 5 Bosworth Drive, Newthorpe, Nottinghamshire
Proposal:	Construct a pair of semi-detached houses

The application is brought to the Committee at request of Councillor R Bullock.

1. Purpose of the Report

1.1 The application seeks full planning permission for the erection of a pair of semi-detached properties. The building has a footprint of 9.4m by 10.5m and with a roof height of 8.2m.

2. Recommendation

The Committee is asked to resolve that planning permission be granted subject to conditions outlined in the appendix.

3. Detail

3.1 The application site consists an undeveloped sloping grassed gap site located on Bosworth Drive. The site slopes upwards from the public road to the field to the east with an un-regularised (that is, not adopted) footpath running through the centre of the site running from Bosworth Drive to the public right of way to the rear of the site.

3.2 In regards to neighbouring properties the site is located in a built up residential area of Newthorpe with an adjacent neighbour to the north (3 Bosworth Drive) and also an immediate neighbour to the south (5 Bosworth Drive). 2 Bosworth Drive is located to the west on the opposite side of the public road and with open agricultural land to the east. There is a formalised public right of way located to the east of the site running the length of the open land.

3.4 Overall it is considered that the proposal is in accordance with the policies set out in the Council’s Local Plan and the NPPF. It is therefore considered that the proposal is acceptable and that planning permission should be granted in accordance with the recommendations set out in the **Appendix**.

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

Nil.

Appendix

1. Details of the Application

The application seeks full planning permission for the erection of a pair of semi-detached properties. The building has a footprint of 9.4m by 10.5m and with a roof height of 8.2m.

2. Site and surroundings

The application site consists an undeveloped sloping grassed gap site located on Bosworth Drive. The site slopes upwards from the public road to the field to the east with an un-regularised footpath running through the centre of the site.

In regards to neighbouring properties the site is located in a built up residential area of Newthorpe with an adjacent neighbour to the north (3 Bosworth Drive) and also an immediate neighbour to the south (5 Bosworth Drive). 2 Bosworth Drive is located to the west on the opposite side of the public road and with open agricultural land to the east. The agricultural land is within the Green Belt. There is a formalised public right of way located to the east of the site running the length of the open land.

3. Relevant Planning History

No relevant planning history found.

4. Relevant Policies and Guidance

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 8 - Housing Size, Mix and Choice.
- Policy 10 - Design and Enhancing Local Identity.

Part 2 Local Plan 2019:

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

Policy 15 - Housing Size, Mix and Choice.

Policy 17 - Place-making, Design and Amenity

National Planning Policy Framework (NPPF) 2023:

Section 2 - Achieving sustainable development

Section 4 - Decision-making.

Section 5 - Delivering a sufficient Supply of Homes

Section 12 - Achieving well-designed and beautiful places

5. Consultations

5.1 **Council's Councillors and Parish/Town Councils:**

- Councillor B Bullock – Requested the application be called into committee due to the loss of the footpath running across the site.
- Greasley Parish Council - No Response Received.

Highways: Standing Advice Applies.

5.3 **Environmental Health:** No objection subject to a condition requiring the submission of a construction management plan and also Informatives relating to construction hours, burning of commercial waste and dealing with dust.

5.4 Environmental Services: Details of waste bin requirements provided.

5.5 **Coal Authority:** Original objection due to lack of information overcome with a pre-commencement condition regarding site investigation and a signed statement of safety prior to occupation. A ground investigation informative has also been requested.

5.6 **Severn Trent:** No response received.

5.7 **Via (Public Rights of Way team):** No public rights of way are currently recorded actually over the proposed development site. This does not preclude unrecorded public rights being proven to exist at a later date. However, the evidence of use on site suggests that there is also a route on the ground that is very well used. This route runs directly through the site from Bosworth Drive in an easterly direction. In not accommodating public access on this particular route the applicants face the potential risk of a claim for public rights to be acquired through usage.

5.8 Five neighbours were consulted on the application with four objections being received from neighbouring properties and nine objections being received from third parties. The comments received are summarised below:

- Does not comply with the NPPF or local planning policy,
- Loss of the public footpath running through the site,
- Loss of privacy due to neighbouring windows facing onto the site,
- Design of the property is not in keeping with the area,
- Semi-detached property is not in keeping with the adjacent properties,
- Loss of daylight,
- Loss of habitat for wildlife,
- Noise,
- Traffic generation and existing parking issues within the street,
- Loss of the culvert within the site will result in flooding on other areas of the estate,
- Presence of a high voltage cable running through the site,
- Unacceptable noise during the construction of the buildings,

- Existing covenant on the site prevents development,
- Sense of enclosure,
- Lack of economic gain from the proposal to the surrounding area,
- Previous planning application refused,
- Japanese knotweed previously on the site,
- Impact from the site on nearby landscape designations.

6. Assessment

Principle

- 6.1.1 The principle of a residential dwelling within a gap site within a residential area in this location, is deemed acceptable in regard to the character of the existing site and the surrounding area.

Design

- 6.2.1 Policy 10 of the Aligned Core Strategy states that development will be assessed in terms of massing, scale and proportion, materials and the impact on the amenity of nearby residents or occupiers. Policy 8 of the Aligned Core Strategy states that residential development should maintain, provide and contribute to a mix of housing tenures, types and sizes in order to create sustainable, inclusive and mixed communities. All residential developments should contain adequate internal living space and a proportion of homes should be capable of being adapted to suit the lifetime of its occupants.

Policy 17 of the Part 2 Local Plan 2019 states that 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. Policy 15 of the Part 2 Local Plan 2019 states that 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 and all age groups are met.

- 6.2.2 The application was originally submitted with for a pair of semi-detached properties showing a mansard design of roof and a very plain fenestration to the principle elevation facing the road. The submitted design was considered to be unacceptable given the incongruous nature of the proposal in comparison to the neighbouring properties. A discussion was had with the agent with regards to the design of the proposal and an amended scheme was latterly submitted changing to a more traditional style of roof and a principle elevation more in keeping with the design of surrounding properties.
- 6.2.3 The amended design shows a ridge line running parallel with the public road and a gable feature facing the road. This is consistent with neighbouring properties and is considered to be an acceptable design for the property. The amended scheme shows a more architecturally interesting design for the

principle elevation with a mix of brick colours to bring the appearance of the building in line with the surrounding properties within the street scene. Once constructed the building will read as a singular detached property and in line with the adjacent properties within close proximity to the site.

- 6.2.4 The building is large in terms of its scale and massing and accommodates the majority of the width of the site. Comments have been raised with regards to the scale of the building and its width within the site. It is noted that the adjacent buildings to the south all utilise the full widths of their respective sites and so it is considered that the width of the proposed building is comparable to the size of the site and with the adjacent properties. Comments have also been received with regards to the properties height being a three storey building. The proposed building is a two storey property with the loft space converted into an additional living space with a large box dormer proposed on the rear roof elevation. This form of development is not an uncommon feature within properties although there are no properties in close proximity to the site which have converted their loft spaces. To facilitate the accommodation within the roof space a roof pitch steeper than the adjacent properties is being proposed. This will potentially create a taller property within the streetscene. However, the proposal is to regrade the land levels within the site to accommodate the property and so the height differential between the existing and proposed properties will be minimal and therefore acceptable.
- 6.2.5 Information submitted on the application form indicates that the finish materials of the proposed houses will match that of the existing houses with buff and red bricks used in the construction of the walls and dark grey smooth tiles to be used on the roof. The windows and doors will be constructed of Upvc double glazed casement style in a similar appearance and design to those existing in neighbouring houses. Therefore, it is considered that the proposed finish materials to be used in the development are considered acceptable in respect to their appearance within the local streetscape subject to the approval of materials.

Amenity

- 6.3.1 Policy 10 of the Aligned Core Strategy states that the impact of a development on neighbour amenity will be a consideration. Policy 17 of the Part 2 Local Plan 2019 states that any development should not cause an unacceptable loss of amenity for the occupiers of neighbouring properties.
- 6.3.2 There are windows on the side elevations of the properties that face directly onto neighbouring houses and are in close proximity to the neighbouring sites. These windows would be narrow in width and serve dining areas, landings and bathrooms so none of them are serving primary residential spaces. Given this fact it is considered that there will be no negative impact on the occupants of the properties from neighbouring properties. Notwithstanding this, windows at first and second floor level on the side elevations would be conditioned to be obscure glazing so as to further safeguard privacy.

- 6.3.3 The neighbouring properties have windows facing directly onto the site which will face onto the walls of the proposed building. Again these windows serve non-primary residential spaces and have a similar separation distance as with the existing properties already within the site. Given this fact it is considered that although there will be some factor of loss of light to these windows, the degree to which this will exist is considered acceptable.
- 6.3.4 Comments have been received with regards to the overlooking of the neighbouring garden areas from the proposed building. The design of the property is similar in style to neighbouring property with upper floor rear windows and also a large rear dormer. The land directly to the rear of the site is open agricultural land and so there is no negative impact on this section of land from the windows. Given the relationship between the rear of the proposal and the rear windows it is considered that the views from these windows would be acute and of no difference to those that exist currently with adjacent properties within the street.
- 6.3.5 Given the proposed buildings location on the site and its relationship with the neighbouring houses it is considered that there will be no additional significant loss of sunlight/daylight to the surrounding neighbouring amenity spaces.

Access

- 6.4.1 Policy 17 of the Part 2 Local Plan 2019 states that planning permission will be granted for new development that provides sufficient, well-integrated parking and safe and convenient access.
- 6.4.2 A new access is proposed from Bosworth Drive into the site. The whole frontage is proposed to be opened up to create the access for the proposed houses. Visibility in either direction is considered acceptable and there is considered to be little impact to be created in terms of road safety.
- 6.4.3 The proposal is for 2 x three bedroomed properties. It is considered that there would be ample space proposed to allow for onsite parking of 4 vehicles. As well as this there is a large road frontage with no parking restrictions in place. Given these points it is considered that the proposed access and parking for the properties are considered acceptable.
- 6.4.4 Two on-site parking spaces have been proposed for each property. This is considered to be in line with parking standards. Comments have been received with regards to the parking arrangements of the proposal. Concerns are raised with regards to the lack of road side parking within the street and the use of the site for parking of vehicles of neighbouring properties.
- 6.4.5 To the rear of the site is a public right of way running the full length of the adjacent field. There are obvious signs that the site in question has been used as an informal link from Bosworth Drive to the public footpath. Comments have been received with regards to the loss of this footpath. It is obvious that the site

has been used as a through route from Bosworth Drive to the public footpath to the east for many years. The path is an unofficial track and not a designated footpath so there is no requirement to protect the retention of the access route. The Public Rights of Way team were consulted as part of the application and have raised no objection to the application subject to conditions protecting the existing public right of way to the rear of the site.

6.46 With regards to the site being used as an access route, Via commented:

Having checked the definitive map for the Newthorpe area we can confirm that Greasley Footpath 67 runs to the east of the application site. Greasley Footpath 67 appears to be unaffected by the proposal. No public rights of way are currently recorded actually over the proposed development site. This does not preclude unrecorded public rights being proven to exist at a later date. However, the evidence of use on site suggests that there is also a route on the ground that is very well used. This route runs directly through the site from Bosworth Drive in an easterly direction. In not accommodating public access on this particular route the applicants face the potential risk of a claim for public rights to be acquired through usage. A claim could be triggered if public use is obstructed and it can be subsequently demonstrated by user evidence that the route has been used by members of the public for a minimum uninterrupted period of 20 years, in the belief that the use is public (without force, secrecy or with the landowner's permission). This could result in the route being legally recorded on the Definitive Map subsequent to development work commencing or being completed, which would require the claimed route, or a reasonable alternative (subject to an appropriate diversion order), to be made publicly available. In order to mitigate this risk, the applicants are advised to seek to formally divert or extinguish all routes across the proposed development site, under the provisions of Section 257 of the Town and Country Planning Act 1990. This would enable the applicants to formally dedicate the routes that they wish to accommodate on the site for public access and to formally extinguish any routes that they wish to retain as private accesses.

6.4.7 Multiple comments have been received from neighbours and third parties with regards to the loss of the footpath leading across the site. A discussion was had with the agent for the application who has stated that as the path is not a formal right of way there was no legal obligation for it to remain and due to the constraints of the site it is not possible to accommodate a through route across the site from Bosworth Drive to the public right of way.

Other Matters

6.5.1 It has been raised by multiple properties that there is a land drain running across the site which captures the water run-off from the land to the rear. Concerns are apparent that the disruption or loss of this drain will have an impact on flooding of the surrounding areas. The presence of this drainage feature is a current unknown but will be picked up as part of the subsequent Building Regulations application, and would be the responsibility of the

developer. A condition requiring a surface water drainage scheme to be submitted and approved will be added to the decision.

6.5.2 The application was submitted prior to the Biodiversity Net Gain legislation being implemented and so there is no requirement for the applicant to provide and BNG on or off the site.

6.5.3 Comments have been received with regards to the sites impact and relationship in close proximity to landscape designations. There are no landscape designations within close proximity to the site.

7. Planning Balance

The benefits of the proposal are that it would provide two additional homes in the borough. The proposal reflects an acceptable level of design and would not appear out of character with the surrounding area. Whilst it is acknowledged the proposal may have some impact on the amenity of the surrounding neighbours, it is considered this will not be at their detriment. On balance, the scheme is acceptable and should be approved.

8. Conclusion

It is concluded that, having regard to the relevant policies of the Local Plan, national planning guidance and to all other material considerations including the Public Sector Equality Duty and comments raised in the representations received, the development is acceptable and that there are no circumstances which otherwise would justify the refusal of permission.

<u>Recommendation</u>	
The committee is asked to resolve that planning permission be granted subject to the following conditions.	
1.	The development hereby permitted shall be commenced before the expiration of three years beginning with the date of this permission. Reason: To comply with S91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004. 9.
2.	The development hereby permitted shall be carried out in accordance with the following plans received by the Local Planning Authority on 15 February 2024: <ul style="list-style-type: none"> • Site Location Plan (Drawing Number: 22-113-08-01), in accordance with the following plans received by the Local Planning Authority on 13 March 2024: <ul style="list-style-type: none"> • Proposed Site Plan (Drawing Reference 22-113-08-03 Rev B),

	<ul style="list-style-type: none"> Proposed Elevations and Floor Plans (Drawing Number 22-113-08-10 Rev D), <p>Reason: For the avoidance of doubt</p>
3.	<p>No development shall commence until full detailed drawings and particulars showing the existing and site levels have been submitted to and approved in writing by the planning authority. Thereafter, development and work shall progress in accordance with these approved details.</p> <p>Reason: In the interests of the amenity of the surrounding area and in accordance with the aims of Policy 17 of the Broxtowe Part 2 Local Plan (2019)</p>
4.	<p>No development shall commence until full details of all surface water drainage provision within the application site (which should accord with the principles of Sustainable Urban Drainage Systems (SUDS) have been submitted to, and approved in writing by, the Planning Authority. Thereafter, only the approved details shall be implemented and all surface water drainage provision shall be completed prior to the first occupation of any of the development.</p> <p>Reason: To ensure that all flood mitigation infrastructure, required in order to reduce the risk of flooding occurring both within and outwith the application site, is provided timeously and in accordance with the aims of Policy 1 of the Broxtowe Part 2 Local Plan (2019). 10.</p>
5.	<p>No development shall commence until;</p> <p>a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;</p> <p>b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.</p> <p>The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.</p> <p>Reason: In the interest of Safety and in accordance with the aims of Policy 22 of the Broxtowe Part 2 Local Plan (2019)</p>
6.	<p>No development within the full planning permission phase hereby approved shall take place until a Construction / Demolition</p>

	<p>Method Statement has been submitted to and approved in writing by the Borough Council. The statement shall include:</p> <ul style="list-style-type: none"> a) The means of access for construction traffic; b) parking provision for site operatives and visitors; c) the loading and unloading of plant and materials; d) the storage of plant and materials used in construction / demolition the development; e) a scheme for the recycling/disposal of waste resulting from construction / demolition works / site clearance; and f) details of dust and noise suppression to be used during the construction phase. <p>The approved statement shall be adhered to throughout the construction period.</p> <p>Reason: In the interests of neighbour amenity and in accordance with the aims of Policy 17 of the Broxtowe Part 2 Local Plan (2019)</p>
<p>7.</p>	<p>No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:</p> <ul style="list-style-type: none"> i. All earthworks and existing and finished ground levels in relation to an identified fixed datum point; ii. A plan showing existing landscaping features and vegetation to be retained; iii. The location and design, including materials, of any existing or proposed walls, fences and gates; iv. All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities; and v. A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works. <p>Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme.</p> <p>Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are</p>

	<p>removed or damaged shall be replaced in the next planting season with others of the same size and species.</p> <p>Reason: In order to ensure that a high standard of landscaping is achieved, appropriate to the location of the site <i>and in accordance with the aims of Policy 17 of the Broxtowe Part 2 Local Plan (2019) and Policy 10 of the Aligned Core Strategy (2014).</i></p>
<p>8.</p>	<p>The semi-detached properties shall be constructed using materials as specified in the amended Elevation plans received by the Local Planning Authority on 13 March 2024, unless otherwise agreed in writing by the Local Planning Authority.</p> <p>Reason: To ensure a satisfactory standard of external appearance and in accordance with the aims of Policy 17 of the Broxtowe Part 2 Local Plan (2019) and Policy 10 of the Aligned Core Strategy (2014).</p>
<p>9.</p>	<p>Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.</p> <p>Reason: In the interests of the safety of the occupants of the property and in accordance with the aims of Policy 17 of the Broxtowe Part 2 Local Plan (2019)</p>

<p>10.</p>	<p>The first floor windows on the western elevation and north and south gables of the proposed houses shall be obscurely glazed to Pilkington Level 4 or 5 (or such equivalent glazing which shall first have been agreed in writing by the Local Planning Authority) and retained in this form for the lifetime of the development.</p> <p>Reason: In the interests of neighbour amenity and in accordance with the aims of Policy 17 of the Broxtowe Part 2 Local Plan (2019)</p>
	<p><u>Notes to Applicant</u></p>
<p>1.</p>	<p>The Council has acted positively and proactively in the determination of this application by working to determine it within the agreed determination timescale.</p>
<p>2.</p>	<p>Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission to enter or disturb our property may result in the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works.</p> <p>Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority’s website at: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property.</p>
<p>3.</p>	<p>You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).</p>
<p>4.</p>	<p>No materials produced as a result of the sites operational activities, development or clearance shall be burned on site. All reasonable steps, including damping down site roads, shall be taken to minimise dust and litter emissions whilst the activities are in operation.</p> <p>11.</p>

<p>5.</p>	<p>As this permission relates to the creation of new units, please contact the Council's Street Naming and Numbering team: 3015snn@broxtowe.gov.uk to ensure addresses are created. This can take several weeks and it is advised to make contact as soon as possible after the development commences. A copy of the decision notice, elevations, internal plans and a block plan are required. For larger sites, a detailed site plan of the whole development will also be required.</p>
<p>6.</p>	<ul style="list-style-type: none"> • There should be no disturbance to the surface of the footpath without prior authorisation from the Rights of Way team. • The safety of the public using the path should be observed at all times. A Temporary Closure of the Footpath may be granted to facilitate public safety during the construction phase subject to certain conditions. Further information and costs may be obtained by contacting the Rights of Way section. The applicant should be made aware that at least 5 weeks' notice is required to process the closure and an alternative route on should be provided if possible. • If the route is to be fenced, ensure that the appropriate width is given to the path and that the fence is low level and open aspect to meet good design principles. • If a structure is to be built adjacent to the public footpath, the width of the right of way is not to be encroached upon. • Structures cannot be constructed on the line of the right of way without the prior authorisation of the Rights of way team. It should be noted that structures can only be authorised under certain criteria and such permission is not guaranteed. • No materials or contractor's vehicles should be stored/parked on the path prevent access to or along the path at any time (unless a temporary closure of the path has been applied for and granted) • Should vehicles run over the path during the development, the applicant must ensure that the surface is repaired and made safe for the users of the path, be that pedestrian, equestrian or cyclists. • The existing boundary hedge/tree line directly bordering the development/boundary etc is the responsibility of the current owner/occupier of the land. On the assumption that this boundary is to be retained it should be made clear to all new property owners that they are responsible for the maintenance

	<p>of that boundary, including the hedge/tree line ensuing that it is cut back so as not to interfere with right of way.</p> <ul style="list-style-type: none">• Should scaffold be required on or over the RoW then the applicant should apply for a license and ensure that the scaffold is constructed so as to allow the public use without interruption. licences@viaem.co.uk. If this is not possible then an application to temporarily close the path for the duration should also be applied for (6 weeks' notice is required), email countryside.access@nottscc.gov.uk• If a skip is required and is sited on a highway, which includes a RoW then the company supplying the skip must apply for a permit. http://www.nottinghamshire.gov.uk/transport/licences-and-permits/skip-permit and also ensure that the RoW can still be accessed appropriately by the users permitted by its status i.e. equestrians if a on bridleway, motorised vehicles if on a byway open to all traffic.
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