

Report of the Chief Executive

Application number:	24/00201/FUL
Location:	Land to the rear of 65 Newdigate Road, Watnall, Nottinghamshire, NG16 1HN
Proposal:	Construct detached bungalow

The application is brought to the Committee at request of Councillor M Radulovic MBE and Councillor J M Owen.

1. Purpose of the Report

1.1 The application seeks full planning permission for the construction of a two-bedroom dwelling with a car port within the domestic curtilage of 65 Newdigate Road. There is already a vehicular access for the site accessed off Cloverlands Drive.

2. Recommendation

The Committee is asked to RESOLVE that planning permission be refused as it is considered that the proposal would have an overbearing and detrimental impact on the outlook from 67 Newdigate Road and would be harmful to the character, appearance and pattern of the area.

3. Detail

3.1 The application seeks full planning permission to construct a detached single storey two-bedroom dwelling with a detached car port.

3.2 The detached bungalow will be positioned north of the site, with the rear elevation running along the north eastern boundary. The access to the site is from Cloverlands Drive, using the existing vehicular access that leads to an area of hardstanding a proposed car port. The main garden area will be forward of the principal elevation and the existing tree protected by a TPO will remain.

3.3 To facilitate the construction of the detached dwelling the existing structure (outbuilding) will be demolished and the kennel will remain. A new boundary treatment will be installed between the site and 65 Newdigate Road, the host dwelling. There is parking for three vehicles forward of 65 Newdigate Road.

3.4 The site has a long planning history for applying for planning permission for a detached dwelling, a total of four applications have been refused and two appeals have been dismissed. The Planning Inspector’s decisions are a strong material planning consideration in the determination of this application

3.5 The proposed siting of the dwelling would have an overbearing and detrimental impact on the outlook from 67 Newdigate Road and would be harmful to the character, appearance and pattern of the area.

3.6 The application is therefore contrary to the NPPF, Policy 10 of the Aligned Core Strategy Part 1 and Policy 17 of 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 Section 106s (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

- 1.1 The application seeks permission to construct a detached single storey mono pitched two-bedroom bungalow with a detached car port within the domestic curtilage of 65 Newdigate Road. To the south east of the site lies 65 Newdigate Road, the host dwelling, and to the south lies the existing vehicle access from Cloverlands Drive.
- 1.2 The proposed dwelling is located to the north of the site, within the garden of 65, and has the rear elevation running along the north eastern boundary with 67 Newdigate Road. The dwelling measures 14.6m in length, 7.4m in depth, 2.8m to the ridge height on the north east elevation and 4.3m to the south/south western elevation creating a mono pitched roof. The position of the dwelling is to be 1.6m away from the boundary which runs along the north/north eastern boundary with 67 Newdigate Road, and between 1.4-1.8m away from the north-west boundary. Each bedroom has an en suite, there is an open plan living/kitchen/dining room with bi-fold doors looking south towards the garden area, a utility and WC. The carport measures approximately 5.5m in length, 4m in width and overall height to the flat roof of 2.4m and to be sited south of the site adjacent to the private amenity space allocated for the host dwelling.
- 1.3 No details of the materials proposed to construct the detached two-bedroom dwelling have been submitted, but the proposed elevations indicate vertical cladding with an overhang roof to the southern elevation. The existing kennel will remain and be part of the site.
- 1.4 Within the site currently is a large structure (outbuilding and kennel) and only the outbuilding will be demolished to facilitate the construction of the detached dwelling, the kennel is to remain. The tree covered by a TPO will also remain on site along with the existing vehicle access off Cloverlands Drive.
- 1.5 The host dwelling will retain the existing patio area to the rear of the dwelling, and parking to the principal elevation accessed off Newdigate Road.

2. Site and surroundings

- 2.1 The application site is an area of garden belonging to 65 Newdigate Road Watnall. The northern/north west boundary running along the footpath leading to Chilton Drive consists of an evergreen hedge approximately 2.5m with a post and fence panel inside the site approximately 1.8m. To the north/north eastern boundary is a mature evergreen hedge approximately 2m in height that stops at the side of the outbuildings within the site and then a 1.8m close board fence runs to the between of 67 and 65 Newdigate Road. Along the south/south western boundary with Cloverlands Drive there is a 3.5m evergreen hedge, a vehicle access with an electric security gate approximately 2m in height. Within the site lies a pine tree covered by a Tree

Protection Order (TPO) and sits in the middle of the site (TPO/WAT/15/T7 refers) and this tree is to be retained.

- 2.2 To the east of the site lies detached dwellings along Newdigate Road, which all follow a pattern/line with off road parking/garden areas to the principal elevations and long gardens. To the south lies a modern development of high density dwellings, Woodlands Close, and to the north west lie two storey buildings housing flats along Cloverlands Drive. There is a mixed pallet of materials for the dwellings around the site being either red brick and/or render (cream/white render) to the elevations and a traditional dual pitched tiled roof.
- 2.3 When approaching the site from Cloverlands Drive the context is one of a tree lined street with some trees covered by TPO on the pavement. There is a high evergreen hedge/fencing with a large wooden gate for the northern pavement, the access gate to the site. To the southern pavement, opposite the site, there are trees located within the pavement, modest style red brick two storey dual pitched dwellings with 1m high metal railings. There is a definite pattern to development around the site on Cloverlands Drive.
- 2.4 Within the site there is a substantial detached outbuilding and dog kennel, separated by a covered path. The outbuilding will be demolished to enable the detached dwelling to be constructed but the kennel will remain.

3. Relevant Planning History

- 3.1 The site has a long history of planning applications, for both the dwelling and the garden land.
- 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. This application was not appealed.
- 3.3 In 2009 an application was withdrawn for the construction of two storey side and single storey rear extension to 65 Newdigate Road, 09/00019/FUL refers. A further application was submitted for a revised scheme and was approved and implemented, 09/00205/FUL refers.
- 3.4 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.
- 3.5 In 2011, an application was submitted, 11/00250/FUL refers, 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 would 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, 67 Newdigate Road. 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.

- 3.6 The applicant appealed this decision in January 2012 and the appeal was dismissed. The main issues identified by the Planning 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.
- 3.7 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.
- 3.8 The applicant again appealed this decision in November 2013 and the appeal was dismissed. The main issues identified by the Planning 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.
- 3.9 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. This application was not appealed.
- 3.10 An application was submitted to retain the extension to the outbuilding (garage) and convert the resulting structure into an annexe, 17/00796/FUL refers. This application was withdrawn by the applicant. A further application was submitted, 18/00197/FUL refers, to retain the amended outbuilding and summer house and this application was refused.
- 3.11 Following the refusal for the retention of the summer house and outbuilding extension negotiations took place between the applicant and the Local Planning Authority and the applicant was allowed to retain the structures

under permitted development (Class E) following changes to the size and height and that the structure will be used ancillary to the main dwelling.

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 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 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 4 – Decision-making
- Section 5 - Delivering a sufficient supply of homes
- Section 11 - Making Effective Use of Land
- Section 12 – Achieving well-designed places
- Section 14 - Meeting the challenge of climate change, flooding and coastal change

5. Consultations

5.1 **Broxtowe Borough Council – Environmental Health** – has commented on the application and raises no objection subject to a contaminated land condition due to the site being located within 250m of an historic landfill site and an informative regarding hours of construction and no burning of waste.

5.2 **Broxtowe Borough Council – Refuse and Waste** – has commented on the application and raises no objection subject to the correct bin provision being provided.

5.3 **Broxtowe Borough Council – Tree Officer** – Any comments received will be reported as a late item.

5.4 **Coal Authority (CA)** – No objections. Requests that the Coal Authority's Standing Advice note is drawn to the applicant's attention, where relevant.

5.5 Ward Councillors and Parish Council were consulted and Councillor J Owen requested the application be determined by the Planning Committee.

5.6 Seven neighbours were consulted on the application and a site notice was displayed. A total of 3 representations have been received, one raising no objection and two objections. The objections can be summarised as follows:

- Loss of privacy;
- Sense of enclosure;
- There are three existing structures which are described as garden rooms but at least one appears to be a dwelling;
- The structures were clearly refused planning in 2018 but have been allowed to remain since;
- They are not in keeping with the character of the properties locally and already have a detrimental impact on the view from neighbouring properties;
- The height of the proposed property is significantly higher than the existing 'garden room' which would further degrade the view from neighbouring properties;
- The applicant has a clear disregard for decisions made in the application process and therefore there are concerns that the scope of this proposed development would drift beyond the confines of the application;
- The application is centred around the occupant's disability. Sympathetic to this but the existing property is already large and could potentially be adapted to meet the occupant's needs;
- Considers the justification for the proposal is being used to influence the decision making with the primary objective of the application being to create a second property on the plot supporting the ability to sell the plot in the future. This is evident by a long history of planning applications;
- Newdigate Road has a variety of property styles but a consistently spacious feel with all properties having large gardens.
- This development would set a precedent on the road for additional dwellings to be developed in the gardens with potential access from Newdigate Road via the existing driveways past existing properties;
- This should be strongly resisted as it would intensify the population on the road and dramatically increase traffic, which at times of the day is already a very busy and often dangerous location.

6. Assessment

6.1 The main issues for consideration are whether the principle of the development is acceptable in a residential area; amenity, character of the area, impact on TPO trees, Biodiversity Net Gain and whether the new proposal overcomes the previous reasons for refusal and overcomes the Planning Inspector's appeal decisions. The Planning Inspector's decision is a strong material planning consideration in the determination of this application.

6.1.1 The application is exempt from Biodiversity Net Gain (BNG) as the applicant is going to live in the bungalow and so classed as a self-build. Suitable condition will be included on the decision notice should the application be granted in relation to BNG.

6.2 Amenity

6.2.1 Paragraph 135 of the NPPF states that Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

6.2.2 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.

6.2.3 The proposal seeks to construct a detached dwelling, detached carport and retain the existing kennel within the garden area of 65 Newdigate Road.

6.2.4 The detached dwelling has been positioned to the north of the site, approximately 1.6m from the boundary with 67 Newdigate Road and 1.4-1.8m from the northern boundary that runs alongside the public path leading from Cloverlands Drive to Chilton Drive. Along both boundaries are boundary treatments.

6.2.5 Objections have been received regarding the potential impact on the residential amenity of neighbouring dwellings, specifically outlook being impacted.

6.2.6 The Planning Inspectorate comments in the 2011 and 2013 appeals stated that the proposed residential development would be harmful to the living conditions of the neighbouring occupants at 67 Newdigate Road with particular regard to outlook. Again, consideration has been given to assessing the proposal in relation to the outlook from 67 Newdigate Road with

regards to the positioning of the dwelling and the existing boundary treatment. Given the rear elevation of the proposed dwelling will run approximately 14.6m along the joint boundary with 67 Newdigate Road and then finish close to the existing kennel, which is to be retained, it is considered that the proposed dwelling and existing kennel will result in the boundary with the adjacent property having development running along the length of the site and given the height of the proposal being 2.8m to the eaves, it is considered the development would be oppressive on the occupiers of 67 Newdigate Road in relation to outlook and would have a harmful effect on these occupants when using their garden to sit out and relax. It is acknowledged the proposal is stepped off the joint boundary and has a mono pitched roof arrangement rising away from the boundary, but, it is considered that this would fail to overcome the previous appeal decisions.

- 6.2.7 The proposal to create a detached dwelling and carport will not have any impact on the amenity of the occupiers of neighbouring dwellings, other than the occupants of 67 Newdigate Road, through loss of light or privacy, subject to conditions for obscure glazing.
- 6.2.8 Consideration has been given to ensure there is adequate amenity space for the proposed dwelling and the host dwelling at 65 Newdigate Road, subject to an adequate boundary treatment between the proposal and host dwelling, it is considered there would not be any issue with loss of amenity to either dwelling through overlooking, overbearing or loss of light.
- 6.2.9 The proposed detached carport has been positioned to ensure no impact on the host dwelling nor the neighbouring dwellings and close to the existing vehicular access. No objections have been received about the carport and there are no concerns regarding residential amenity.
- 6.2.9 The proposal to create a detached bungalow within the garden of 65 Newdigate Road would be harmful to the amenity of 67 Newdigate Road as the proposal would have an overbearing and detrimental impact on the outlook from 67 Newdigate Road and therefore the proposal fails to comply with the NPPF, Policy 10 of the Aligned Core Strategy Part 1 and Policy 17 of Part 2 Local Plan.

6.3 Design and visual amenity

- 6.3.1 Paragraph 131 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 6.3.2 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.

- 6.4.3 The detached dwelling has been positioned north within the site and the rear elevation to run along the north east boundary with 67 Newdigate Road. The position of the dwelling has been taken into consideration to allow the main habitable windows to face south/south west to maximise the amount of sunlight and also to position the dwelling away from the protected tree within the site.
- 6.4.4 The design of the detached dwelling has taken into consideration the eaves and ridge height to be as low as possible and stepped off the boundary of the site with 67 Newdigate Road. This has resulted in a mono pitched roof arrangement for the dwelling and given the choice of materials annotated on the submitted plans gives the appearance of an outbuilding rather than a traditional brick or brick and render which is more prominent in the area.
- 6.4.5 The previous appeal decision notices both acknowledge the site lies in an area that has some diversity of house types and styles, the majority of the dwellings are two storey, situated within spacious plots set back from the highway along Newdigate Road. Along Cloverlands Drive are several trees and a mature pine tree within the site, that are protected by Tree Preservation Orders and positively contributes positively to the appearance of the area. The site is enclosed by the host dwelling and the mature boundary treatments and has an existing 2m high wooden electric gate.
- 6.4.6 The proposed dwelling will be screened from public vantage points, with only part of the mono pitched roof being visible, however the private garden area/space are just as important in contributing to patterns of development and influencing the character and appearance of an area. Given the position of the proposed dwelling within the plot it is considered that the proposed dwelling would be harmful to the character and appearance of the area, and would result in an undesirable change in the character or appearance of the area.
- 6.4.7 The position of the proposed dwelling, being located to the north/north east of the site, would be harmful to the character, appearance and pattern of the area and therefore the proposal fails to comply with the NPPF, Policy 10 of the Aligned Core Strategy Part 1 and Policy 17 of Part 2 Local Plan

6.5 Impact on Tree protected by TPO

- 6.5.1 Paragraph 136 of the NPPF states that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change.
- 6.5.2 Given the position of the proposed dwelling and carport from the protected tree it is considered there would not be any impact on the TPO tree subject to a condition for protection measure during construction.

6.6 Pollution

6.6.1 Paragraph 191 of the NPPF states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;

b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and

c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

6.6.2 As the site is located within 250m of an historic land fill site the Environmental Health Officer has been consulted on the application and they have raised no objection to the application subject to a contaminated land condition and informative regarding no burning of waste and hours of construction on the site.

6.7 Highways

6.7.1 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.

6.7.2 The application seeks to use the existing vehicle access off Cloverlands Drive and there is adequate space demonstrated within the submitted plans to accommodate vehicles off the public highway. It should be noted the host dwelling as a vehicle access and hardstanding for 3 cars minimum accessed off Newdigate Road.

6.8.3 It is considered that the proposed development would not raise any issues with highway safety and off road parking.

7 Planning Balance

7.1 The benefits of the proposal would be the provision of one new dwelling and subject to conditions the dwelling would not have any impact on highway safety or public health (contamination).

7.2 The negative impact is that the development would be harmful to the amenity of the occupiers of 67 Newdigate Road by reason of being overbearing and detrimental impact on the outlook from no. 67. The position of the proposed dwelling would be harmful to the pattern of development and the character and appearance of the area. Furthermore, the design of the proposed dwelling would be out of character with the area.

7.3 It is considered that the benefits would not outweigh the negative impacts.

8. Conclusion

8.1 The proposal would fail to protect neighbour amenity by reason of overbearing and the outlook. The position of the proposed dwelling would be harmful to the character, appearance and pattern of the area.

<u>Recommendation</u>	
The Committee is asked to RESOLVE that planning permission be REFUSED for the following reasons:	
1.	The proposal to create a detached bungalow within the garden of 65 Newdigate Road would be harmful to the amenity of the occupiers of 67 Newdigate Road by virtue of its overbearing nature and detrimental impact on the outlook from 67 Newdigate Road. The proposal therefore fails to comply with the NPPF, Policy 10 of the Broxtowe Aligned Core Strategy and Policy 17 of the Broxtowe Part 2 Local Plan.
2.	The position of the proposed dwelling, being located to the north/north east of the site, would be harmful to the character, appearance and pattern of development in the area and furthermore the design of the proposed dwelling would not be in keeping with the area. As such, the proposal fails to comply with the NPPF, Policy 10 of the Broxtowe Aligned Core Strategy and Policy 17 of the Broxtowe Part 2 Local Plan.
NOTES TO APPLICANT	
1.	The Council has acted positively and proactively in the determination of this application by working to determine it within the agreed determination timescale.

Map

