

Report of the Chief Executive

18/00377/FUL**CONSTRUCT 14 HOUSES, GARAGES AND ASSOCIATED ACCESS ROAD FOLLOWING DEMOLITION OF DWELLING LAND TO THE REAR OF 13 MIDDLETON CRESCENT, BEESTON, NOTTINGHAMSHIRE**1. Details of the application

- 1.1 The application was first brought before Planning Committee on 24 April 2019 with a recommendation for refusal because the applicant had not agreed to provide an affordable housing contribution (original report attached as an appendix). Members deferred making a decision on the application as at the meeting, the applicant stated an affordable housing contribution would be made in line with the Council's request.

2. Appraisal

- 2.1 The applicant has agreed to pay the education, open space and integrated transport measures financial contributions but did not previously agree to pay an affordable housing contribution. The applicant's justification for this was a belief the developable site area was below the threshold of 1 hectare and measured 0.98 hectares. However, it is clear the area of land surrounding no. 7A Middleton Crescent is demonstrably part of the 'developable area' of the site which was omitted to avoid paying an affordable housing contribution and when this area of land is included, the site area measures at 1.2 hectares and therefore meets the threshold for an affordable housing contribution (explained in section 6.7 of the original report attached). The original report also referenced relevant case law to support this argument, the high demand for affordable housing in the Beeston sub-market area as well as outlining the current planning policy position, all of which justifies the requirement for an affordable housing contribution to be paid.
- 2.2 The applicant outlined his intention at Planning Committee to pay the affordable housing contribution, thus removing the proposed reason for refusal and overcoming the previous objection raised by the Housing Strategy and Development Officer. Consequently with respect to the financial contributions, the planning application is now considered acceptable.
- 2.3 Nottinghamshire Wildlife Trust provided comments as a late item when this application was reported to the previous Planning Committee. They stated they would prefer for natural vegetation and trees along the brook to be retained and requested assurances that vegetation would be retained alongside the gabion wall. It would also be preferable to retain existing trees rather than plant replacement trees which take time to establish. They highlight that Tottle Brook is a wildlife corridor and therefore seek a mechanism to guarantee long-term maintenance of a river corridor, as by incorporating the brook into gardens, there is a danger that it could be encroached upon by new owners.

- 2.4 Whilst it is acknowledged there will be a loss of biodiversity following the removal of some trees and vegetation, the applicant has agreed to retain trees where possible and plant more trees. A landscaping condition will ensure that suitable native species of trees are introduced into this area and alongside the retention of some trees, it is considered this is sufficient to partly address the concerns raised by the Nottinghamshire Wildlife Trust. It is accepted that the installation of a gabion wall replaces a natural bank but this is considered necessary in order to adequately support the bank and without it, it would pose a safety risk to the occupants of the proposed homes given their closer positioning to the brook. The Tottle Brook has not been maintained historically and has not been significantly enhanced or improved over recent years. Nevertheless there is no proposal through this application that this status as a wildlife corridor will be removed. A landscaping condition can ensure that suitable native species are introduced into this area and this is considered to be sufficient to ensure the brook is enhanced. The need for housing carries significant weight and the retention of this site as an undeveloped part of an unmaintained Green Corridor and wildlife corridor is considered to be of less weight than the significant benefits of redeveloping this site for housing in an urban location.

3. Conclusion

- 3.1 To conclude, the applicant has agreed to provide an affordable housing contribution which was the sole reason for recommending this application for refusal when reported to Planning Committee on 24 April 2019. Furthermore, the applicant has stated the intention to retain trees where possible along the Tottle Brook, in addition to introducing new native species which can be secured through a landscaping condition. As detailed in the previous report, it is considered that sufficient amendments have been sought so the proposed development has an acceptable impact on the amenity of the surrounding neighbours, the design is acceptable and will not appear out of keeping with the surrounding area and an acceptable standard of amenity has been provided for future occupants. The information provided in relation to flooding, drainage and highways has satisfied concerns raised and is considered to be acceptable.

Recommendation

The Committee is asked to RESOLVE that the Head of Neighbourhoods and Prosperity be given delegated authority to grant planning permission subject to:

- (i) prior completion of an agreement under Section 106 of the Town and Country Planning Act 1990 to secure affordable housing, education, open space and integrated transport measures contributions and**
- (ii) the following conditions:**
 - 1. The development hereby permitted shall be commenced before the expiration three years beginning with the date of the permission.**
 - 2. The development hereby permitted shall be carried out in accordance with drawings: Site Location Plan (1:1250) received by the Local Planning Authority on 25 May 2018, 03 Rev J, 04 Rev D, 05 Rev E, 06 Rev G, 07 Rev D, 10 and 11 received by the Local Planning Authority on 3 April 2019, 02 Rev H**

received by the Local Planning Authority on 4 April 2019, 01 Rev W received by the Local Planning Authority on 5 April 2019, F16046/04 Rev C received by the Local Planning Authority on 8 April 2019 and 09 Rev E and 13 Rev C received by the Local Planning Authority on 10 April 2019.

3. No development including site clearance, shall commence until wheel washing facilities have been installed on site in accordance with details first submitted to and approved in writing by the Local Planning Authority. The wheel washing facilities shall be maintained in working order at all times.
4. No development shall commence until a detailed surface water drainage scheme based on the principles set out in the approved Sustainable Drainage Statement (prepared by BWB Consulting Ltd, ref: MCB-BWB-ZZ-XX-RP-CD-0001_SDS, dated October 2018) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to completion of the development. The scheme to be submitted shall:
 - Demonstrate that the development will use SuDS throughout the site as a primary means of surface water management
 - Limit the discharge rate generated by all rainfall events up to the 100 years plus 40% (for climate change) critical rain storm to the QBar Greenfield rates for the developable area.
 - Provision of surface water run-off attenuation storage in accordance with 'Science Report SCO30219 Rainfall Management for Developments' and the approved FRA.
 - Provide detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details of any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
 - Make provision for all exceedance to be contained within the site boundary without flooding new properties in a 100year+40% storm.
 - Provide evidence of how the on-site surface water drainage systems shall be maintained and managed after completion and for the lifetime of the development to ensure long term operation to design parameters.
5. No development or site clearance shall commence until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:
 - (a) numbers, types, sizes and positions of proposed trees and shrubs and existing trees to be retained;
 - (b) a detailed plan which demonstrates the proposed tree planting will not prevent sufficient access to the Tottle Brook watercourse;
 - (c) planting, seeding/ turfing of other soft landscape areas;
 - (d) details of the site boundary treatments;

(e) a timetable for implementation of the scheme.

The landscaping scheme shall be carried out in accordance with the approved timetable. If any trees or plants, which, within a period of 5 years, die, are removed or have become seriously damaged or diseased they shall be replaced in the next planting season with ones of similar size and species to the satisfaction of the Local Planning Authority.

6. No development above slab level shall be carried out until samples of the materials to be used in the facing walls and roofs have been submitted to and approved in writing by the Local Planning Authority, and the development shall be constructed only in accordance with those details.
7. Prior to the first occupation of the houses hereby approved, the development shall be constructed in accordance with the submitted Flood Risk Assessment prepared by BWB Consulting Ltd, ref: MCB-BWB-ZZ-XX-RP-YE-0001_FRA, received by the Local Planning Authority on 30 April 2019 and in accordance with the mitigation measure that finished floor levels are set no lower than 37.1m above Ordnance Datum. This mitigation measure shall be maintained and retained for the lifetime of the development.
8. Prior to the first occupation of the houses hereby approved, all driveways and parking areas shall be surfaced in a hard, bound material (not loose aggregate), and designed to prevent the unregulated discharge of surface water onto the public highway. The surfaced drives and parking areas shall then be maintained in such form for the lifetime of the development.
9. Prior to the first occupation of the houses hereby approved, the existing site access shall be made redundant and permanently closed and the access crossing reinstated as a footway.
10. Prior to the first occupation of the houses hereby approved, visibility splays shall be provided in accordance with the approved plans. The area within the visibility splays shall be kept free of all obstructions for the lifetime of the development.
11. The first floor side windows annotated as obscurely glazed on drawing numbers: 02 Rev H, 03 Rev J, 04 Rev D, 05 Rev E, 06 Rev G and 10 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.
12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any Order revoking or re-enacting this Order, no extensions or outbuildings shall be carried out to the dwellings on plots 1 - 5 hereby approved which come within Class A and E of Schedule 2 Part 1 of the Order without the prior written permission of the Local Planning Authority by way of a formal planning permission.
13. No construction or site preparation work in association with this permission shall be undertaken outside of the hours of 07.30-18.00 Monday to Saturday and at no time on Sundays or Bank Holidays. Exceptionally, specific works

or operations may be carried out outside these times, but these must be agreed in writing with the Local Planning Authority 7 days in advance of being undertaken.

Reasons

1. To comply with S91 of the Town and Country Planning Act 1990 as amended by S51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt.
3. The development cannot proceed satisfactorily without the outstanding matters being agreed and no such details were submitted with the application. In the interests of highway safety to mitigate the impact of the development on the highway network and in accordance with the aims of Policy T11 of the Broxtowe Local Plan (2004).
4. The development cannot proceed satisfactorily without the outstanding matters being agreed and no such details were submitted with the application. Further to prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures in accordance with the aims of Policy E27 of the Broxtowe Local Plan (2004) and Policy 1 of the Broxtowe Aligned Core Strategy (2014).
5. The development cannot proceed satisfactorily without the outstanding matters being agreed and no such details were submitted with the application. To ensure the development presents the satisfactory standard of external appearance to the area and to maintain trees to preserve the Tottle Brook as a wildlife corridor and in accordance with the aims of Policy H7 of the Broxtowe Local Plan (2004) and Policy 10 of the Broxtowe Aligned Core Strategy (2014).
6. The development cannot proceed satisfactorily without the outstanding matters being agreed and no such details were submitted with the application. To ensure the satisfactory standard of external appearance in accordance with Policy 10 of the Broxtowe Aligned Core Strategy (2014).
7. To reduce the risk of flooding and in accordance with the aims of Policy 1 of the Broxtowe Aligned Core Strategy (2014).
- 8.9.&10. In the interests of highway safety to mitigate the impact of the development on the highway network and in accordance with the aims of Policy T11 of the Broxtowe Local Plan (2004).
11. In the interests of privacy and amenity for nearby residents and in accordance with the aims of Policy H7 of the Broxtowe Local Plan (2004) and Policy 10 of the Broxtowe Aligned Core Strategy (2014).
12. To ensure that access to the Tottle Brook watercourse is kept clear for future maintenance, to reduce the risk of flooding to the development, to prevent flooding elsewhere and in accordance with Policy 1 of the Broxtowe Aligned Core Strategy (2014).

13. In the interests of the amenities of nearby residents and in accordance with the aims of Policy 10 of the Broxtowe Aligned Core Strategy (2014).

Note to applicant

1. The Council has acted positively and proactively in the determination of this application by communicating with the agent throughout the course of the application.
2. The applicant should note that, if any highway forming part of the development is to be adopted by the Highways Authority, the new roads and any highway drainage will be required to comply with Nottinghamshire County Council's current highway design guidance and specification for roadworks. An agreement under Section 38 of the Highways Act 1980 will be required. It is also an offence under Sections 148 and 151 of the Highways Act 1980 to deposit mud onto the public highway. The proposal makes it necessary to reinstate the redundant access/ vehicular crossing over a footway of the public highway and these works should be carried out to the satisfaction of the Highways Authority. The applicant is advised to contact the Nottinghamshire County Council as Highways Authority at an early stage on telephone number: 0300 500 8080.
3. The gabion wall and any activities that take place within 8 metres of the Tottle Brook watercourse will require a flood risk activity permit. The applicant is advised to contact the Environment Agency on telephone number: 03702 422 549. Further guidance can be obtained by visiting: <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits>.
4. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority.
5. The applicant is advised to contact the Council's Waste and Recycling Section on telephone number: 0115 917 7777 to discuss waste and refuse collection requirements.

Background papers
Application case file