APPENDIX

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

Councillor S Carr has requested this application be determined by Planning Committee.

1 Details of the Application

1.1 This is a major planning application to construct 14 new dwellings with garages and an associated access road following the demolition of one dwelling, no. 13 Middleton Crescent. A new access road will be created from Middleton Crescent. The application includes a Design and Access Statement, Flood Risk Assessment, Drainage Statement, Ecology Survey, Foul Sewerage Assessment, Highway Impact Statement and Tree Survey.

1.2 Each house will be two or three storeys high, between 8.7m – 11.1m in height, have hipped/gable roofs, between four and six bedrooms and a minimum of three car parking spaces on a driveway and in garages. A bin store serving plots 7A, 10 and 11 is positioned in front of the garage on plot 11. A gabion wall is proposed along the northern boundary of the site to support the land sloping down towards the Tottle Brook.

1.3 Amended plans were received during the course of the application and the main changes include a reduction in height of house type A by 1.2m, removal of the second floor and reduction in the height of house type B by 1.5m. House type E was reduced in height by 0.6m and an additional house type was included, house type F. Plot 1 has been moved approximately 1m further away from the boundary with no. 165 Appledore Avenue and the footprint of the property has been handed so the longest part of the property will align with the boundary of plot 2. Plots 1 – 4 have been moved further south and the garden sizes increased to a length of 10-12m. The detached garages were changed from gable to hipped roofs and reduced in height by 0.6m (reduced by 0.8m for plot 1). The front dormer of plot 1 will have a recessed window surrounded by boarding. A mixture of trees will be planted along Tottle Brook following the removal of the existing trees. The gradient of the road entering the site has been lowered and a retaining wall ranging from 0.5m – 1m in height has been included along the west side of the road wrapping around the southern boundary of plot 13. Several amendments were made in relation to the design.

2 Site and Surroundings

View of site to the north west and view of rear of no. 165 Appledore Avenue

View of site to the north

View of site facing south east and view of no. 7A Middleton Crescent from no. 165 Appledore Avenue

View of site facing east from no. 165 Appledore Avenue

View of site facing south west from rear garden of no. 55 Wollaton Vale

View of site facing south west from rear garden of no. 15 Middleton Crescent

View of site facing southern boundary and view of access into site

East elevation of no. 7A Middleton Crescent

2.1 The site lies between Middleton Crescent, Wollaton Vale and Appledore Avenue in a residential area. The site is approximately 1.2 hectares in size and is vacant land. The existing house on the site, no. 7A Middleton Crescent, is currently accessed by a single track road from Middleton Crescent. The site slopes steeply from south west to north east. It slopes down approximately 12.5m from the highest point in the south west corner down to the north east adjoining Wollaton Vale.

2.2 There are a number of mature trees along the boundary with Tottle Brook and no. 15 Middleton Crescent. Tottle Brook runs along the north boundary of the site and separates the site with the properties along Wollaton Vale. Wollaton Vale is located within the Nottingham City Council boundary. A 2m high fence extends across the western boundary of the site. Mature trees, a hedge and vegetation extend across the boundary with no. 15 Middleton Crescent. The properties surrounding the site along Wollaton Vale and Middleton Crescent are large detached houses, nos. 165, 167 and 169 Appledore Avenue are link detached houses and no. 40A Derby Road is a detached dwelling.

3 Relevant Planning History

3.1 in 2007, following the publication of a Committee report recommending refusal, an application (07/00856/FUL) to demolish 7A Middleton Crescent and 61 Wollaton Vale and construct 10 houses, 17 apartments and access from Wollaton Vale was withdrawn.

3.2 A revised application to demolish no .7A Middleton Crescent and no. 61 Wollaton Vale and construct 10 houses and 11 apartments, with a new access road from Wollaton Vale (09/00289/FUL) was dismissed on appeal following non-determination. The Inspector dismissed the appeal because he considered a cramped and over intensive form of development was proposed, which would be harmful to the spacious character of the area, that the proposed three storey apartments would have a detrimental impact on outlook from the rear garden of

Wollaton Vale and cause potential for overlooking and the proposed dwellings would be harmful to neighbour amenity.

4 Policy Context

4.1 **National policy**

4.1.1 The National Planning Policy Framework (NPPF) February 2019, outlines a presumption in favour of sustainable development, that planning should be plan-led, decisions should be approached in a positive and creative way and high quality design should be sought.

4.1.2 Paragraphs 56 – 57 advise that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly relate to the development and are fairly and reasonably related in scale and kind to the development. Furthermore, where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable.

4.1.3 Paragraph 59 states that a sufficient amount and variety of land should come forward where needed, and that land with permission is developed without unnecessary delay.

4.1.4 Paragraph 109 states that development should only be 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. Paragraph 105 states if setting local parking standards for residential and non-residential development, local planning authorities should take into account:

- the accessibility of the development;
- the type, mix and use of development;
- the availability of and opportunities for public transport;
- local car ownership levels; and
- the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.

4.1.5 Paragraph 127 states that developments should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; be sympathetic to local character and history; establish or maintain a strong sense of place; and create places that are safe, inclusive and accessible.

4.1.6 Paragraph 155 outlines how inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

4.1.7 Paragraph 180 states that planning 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.

4.2 **Broxtowe Aligned Core Strategy**

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

4.2.2 'Policy A: Presumption in Favour of Sustainable Development' reflects the presumption in favour of sustainable development contained in the NPPF. Applications which accord with the Local Plan will be approved without delay unless material considerations indicate otherwise.

4.2.3 'Policy 1: Climate Change' sets out how climate change will be tackled and adapted to and sets requirements for sustainable design of buildings.

4.2.4 'Policy 2: The Spatial Strategy' sets the overarching strategy for how growth in Greater Nottingham will be accommodated and distributed. It sets the required number of homes for Greater Nottingham (GN) between 2011 and 2028 (6,150 in the Broxtowe Borough part of GN, of which 3,800 are in or adjoining the existing built up area of Nottingham) and outlines a settlement hierarchy.

4.2.5 'Policy 8: Housing Size, Mix and Choice'. 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. It sets out the approach to affordable housing and establishes a 30 per cent target for Broxtowe Borough.

4.2.6 'Policy 10: Design and Enhancing Local Identity'. Aims to ensure that all new development should aspire to the highest standards of design, including construction methods and materials, and consideration of residential amenity should be integrated in the design.

4.2.7 'Policy 14: Managing Travel Demand' aims to reduce the need to travel by private car. It states that the priority should be to select sites which are already accessible by walking, cycling and public transport.

4.2.8 'Policy 16: Green Infrastructure, Parks and Open Space' states that a strategic approach to the delivery, protection and enhancement of Green Infrastructure will be taken.

4.2.9 'Policy 18: Infrastructure' seeks to ensure new development is provided with the necessary infrastructure.

4.2.10 'Policy 19: Developer Contributions' confirms the current use of section 106 agreements.

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

4.3.1 The Part 2 Local Plan has recently been examined. Until adoption, Appendix E of the Core Strategy confirms which Local Plan policies are saved. Relevant saved policies are as follows:

4.3.2 Policy E24 'Trees, hedgerows and Tree Preservation Orders': Development that would adversely affect these will not be permitted.

4.3.3 Policy E27 'Protection of Groundwater' states planning permission will not be granted for development which would be liable to result in the infiltration of contaminants into groundwater resources unless mitigation measures are proposed.

4.3.4 Policy E34 'Control of Noise Nuisance' suggests planning permission should not be granted for housing if the occupants, even with appropriate mitigation measures, would experience significant noise disturbance.

4.3.5 Policy H5 'Affordable housing' states that on housing sites of over 1 hectare or over 25 dwellings, the Council will seek to ensure that at least 25% of dwellings built will be affordable or, exceptionally, that a financial contribution is made to facilitate off-site provision.

4.3.6 Policy H6 'Density of Housing Development' provides density requirements for residential development: where development is within 400m walking distance of frequent public transport services, a minimum density of 40 dwellings per hectare is required and if the distance is beyond 400m, 35 dwellings per hectare.

4.3.7 Policy H7 'Land Not Allocated for Housing Purposes' states that residential development on sites within existing built-up areas will be permitted provided the amenity of existing and proposed occupiers is not adversely affected; the development would not result in an undesirable change in the character or appearance of the area; the development of a larger area is not prejudiced; satisfactory provision is made for access and parking; the site is not of significant nature conservation value and the site is not required to be retained for another purpose in the local plan.

4.3.8 Policy RC6 'Open space: requirements for New Developments' provision should be made for public open space and children's play areas on residential development sites which exceed 0.5 hectares. The design of any open space provision should take into account the possible provision of features beneficial to wildlife.

4.3.9 Policy T1 'Developers' Contributions to Integrated Transport Measures' planning permission for developments which generate a demand for travel will not be granted until a contribution towards transport infrastructure has been negotiated.

4.3.10 Policy T11 'Guidance for Parking Provision' planning permission will not be granted for new development unless appropriate provision is made for vehicle parking and servicing.

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

4.4.1 The Part 2 Local Plan includes site allocations and specific development management policies. The draft plan has recently been examined, with the Inspector's report awaited. The representations on the plan included 7 representations in relation to Policy 1, 12 representations in relation to Policy 15, 11 representations in relation to Policy 17, 7 representations in relation to Policy 26 and11 representations in relation to Policy 32. The Inspector issued a 'Post Hearing Advice Note' on 15 March 2019. This note did not include a request that further modifications be undertaken to Policies 1, 17, 26 and 32. Whilst this is not the inspector's final report, and the examination into the local plan has not been concluded, it does mean Policies 1, 17, 26 and 32 can now be afforded moderate weight. As further modifications have been requested for Policy 15, this can only be afforded limited weight. It is also relevant that the Inspector's comments on this policy do not relate to the proposed approach to affordable housing contributions.

4.4.2 Policy 1 'Flood Risk' states that development will not be permitted in areas at risk from any form of flooding unless: there are no suitable and reasonably available alternative locations for the proposed development in a lower-risk area outside the Green Belt; and in the case of fluvial flooding, the proposal is protected by the Nottingham Trent Left Bank Flood Alleviation Scheme or other flood defences of equivalent quality; and adequate mitigation measures are included.

4.4.3 Policy 15 'Housing Size, Mix and Choice' states that 30% or more of housing should be affordable within the Beeston sub-market area if more than 10 dwellings are proposed. If less than this is proposed, a viability assessment must accompany the application. Affordable housing provision should be made on site, unless there are exceptional circumstances. Developments should provide an appropriate mix of house size, type, tenure and density to ensure that the needs of the residents of all parts of the borough are met. At least 10% of the dwellings should comply with requirement M4(2) of the Building Regulations regarding 'accessible and adaptable dwellings'.

4.4.4 Policy 17 'Place-making, Design and Amenity' states that permission will be granted for development which meets a number of criteria (where relevant) including that it integrates into its surroundings; provides, or is close to, community facilities; has good access to public transport; creates a place with a locally inspired or otherwise distinctive character; takes advantage of existing topography and buildings; provides sufficient, well-integrated parking; ensures satisfactory standards of amenity for existing and proposed residents; enables convenient use by people with limited mobility; incorporates ecologically sensitive design, with a high standard of planting (makes use of native species) and features for biodiversity (including bat/bird boxes) and does not prejudice the development of a larger site. An assessment in relation to 'Building for Life' criteria will be required to be submitted within the Design and Access Statement.

4.4.5 Policy 26 'Travel Plans' states that a Travel Plan will be expected to be submitted for developments of 10 or more dwellings or 1000 sqm or more gross floor space.

4.4.6 Policy 32 'Developer contributions' financial contributions may be sought from developments of 10 or more dwellings or 1000 sqm or more gross floorspace for

provision, improvement or maintenance, where relevant, of: affordable housing; health; community facilities; green space; biodiversity; education and highways.

5 Consultations

5.1 The County Council as Highways Authority initially advised that the proposed roads were not to an adoptable standard. On receipt of amended plans the Highways Authority were satisfied that the outstanding issues had been resolved but have requested conditions in respect of the submission of details of the new access roads (e.g. visibility splays, gradients and construction specification). Further conditions were advised in relation to the driveways being surfaced in a hard, bound material that are appropriately drained, the existing site access being made redundant and wheel washing facilities being installed on site. An advisory to contact the Highways Authority in relation to the redundant access has been advised.

5.2 The Council's Waste and Recycling Officer has advised on the requirements for waste and recycling.

5.3 The Tree Officer has stated that none of the trees along the Tottle Brook are worthy of protection with most of them being in a state of decline or decay due to erosion from the bank. Tree T15 has been recommended for retention.

5.4 The Nottinghamshire Wildlife Trust have stated that they are satisfied with the information provided in relation to the gabion wall and the Ecology Survey and have advised a condition that works are carried out in accordance with this.

5.5 The Environment Agency (EA) raise no objection subject to the inclusion of a condition requiring that finished floor levels are set no lower than 37.1m above Ordnance Datum and there is no development within 8m of the Tottle Brook. No objection has been raised by the EA in relation to the gabion wall but a flood risk activity permit will be required. A pre-commencement condition has been advised in relation to tree planting along the Tottle Brook. The EA have commented that the Flood Risk Assessment would be required to be updated due to receiving amended plans and that this should include information on the gabion wall.

5.6 The County Council as Lead Local Flood Authority (LLFA) initially objected to this application in the absence of a drainage strategy. Further information has been provided and the LLFA have no objection subject to the inclusion of a condition requiring the submission of a surface water drainage scheme based on the submitted Drainage Statement.

5.7 The Housing Strategy and Development Officer has objected to the application as the site meets the threshold for an affordable housing contribution but this has not been provided. Furthermore, it has been identified there is a high need for social and affordable home ownership, particularly within the Beeston sub-area. The provision of an on-site or off-site contribution would help achieve a key outcome identified in Broxtowe Borough Council's Housing Strategy 2015 – 2020.

5.8 The Business and Projects Manager (Environment) has requested a financial contribution of £18,589.35 towards Beeston Fields Recreational Park for path and play area surfacing.

5.9 The County Council Planning Policy team have requested an education contribution of £40,968.

5.10 The Environmental Health Officer raises no objection subject to an advisory in respect of working hours and no bonfires taking place on the site.

5.11 Natural England were consulted but stated the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes.

5.12 Severn Trent Water Ltd, NHS Nottingham West Clinical Commissioning Group and the Nottingham Police Crime Prevention Design Officer Advisor were consulted but have not provided comments.

5.13 Nottingham City Council's Planning Department was consulted but was consulted but stated they had no comments to make in relation to the application.

5.14 A site notice and amended site notice were posted on Middleton Crescent and Appledore Avenue. 121 neighbours were consulted and 37 representations were received. One in support of the development, one raising no objection, six raising observations, 29 objecting (with one letter including 16 neighbours addresses supporting an objection). Comments received can be summarised as follows:

- Three storey houses are not appropriate due to the steep ground level of the site and should be reduced to two storeys unless they are set back from boundaries of neighbouring properties
- Six properties facing Wollaton Vale will create an overbearing continuous line of development due to raised ground level
- Laurel hedge may be destroyed which retains privacy
- No cross sections provided in order to assess the impact of the properties on existing properties adjoining site
- Sense of enclosure
- Loss of daylight/sunlight due to large, tall properties and proximity to neighbouring properties due to short garden lengths
- Previous application was refused as properties were 13m from property and these properties are 4-6m which is even closer
- No direct sunlight into dining rooms on plots 2 – 4 as the houses are so close to each other
- Overlooking from houses and patios to adjoining neighbours due to close proximity
- Overlooking from balconies
- Increase in noise due to proximity of properties and construction of properties
- Increase in air pollution
- Properties are too large, six bedrooms with very small gardens
- Does not follow character of properties on Middleton Crescent and Wollaton Vale
- Follows building line of Appledore Avenue despite the fact these are smaller houses

- Not in keeping with unique 1920's existing properties
- Plot 14 out of character with properties on Middleton Crescent as it appears to be 'squeezed in' and projects beyond the building line of no. 15
- Overdeveloped and too intensive
- New access from Middleton Crescent interrupts the crescent
- Destruction of character of historical crescent
- Risk of emergency vehicles not being able to reach existing properties on Middleton Crescent
- Access should be created from Appledore Avenue as Middleton Crescent becomes congested from traffic from A52
- The Flood Risk Assessment states that an "8m standoff from the top of the bank is required where no planting can take place to ensure the Environment Agency can carry out maintenance." This means the proposed houses will be within this area as the bank is 3.5m back from the Brook in places and new residents will not be able to plant anything in this area
- 50% of each plot will be covered by hardstanding meaning there will be substantial surface water-run off and will run into the Tottle Brook and cause flooding
- The 09/00289/FUL application included a balancing pond but no such provision has been made for this application.
- Concern raised in regards Tottle Brook being diverted to enable the amount of houses to be built
- Drainage and flooding issues from sewers on Appledore Avenue meaning a survey should be undertaken if the intention is to connect to these
- Recommendation of this application should reflect the Inspector's findings from the appeal which was dismissed in relation to application 09/00289/FUL. The Inspector concluded the nature of the site due to its relationship with adjoining areas, matters of overlooking and intensity supported the reasons of members to refuse the application
- No planting shown between plots 1 – 4
- No screening provided as trees will be removed
- All remaining vegetation forming a Green Corridor turned into residential gardens
- The Green Corridor is the remains of the original hedge and trees that ran along the field boundary, additional planting and enhancement of this should be incorporated and trees marked blue and green on the Tree Survey should have TPO's attached
- Removal of Green Corridor is contrary to the Regional Biodiversity Strategy Policy 29 which requires Local Planning Authorities to take responsibility in creating, protecting and enhancing networks of semi-natural green spaces in urban areas
- No encouragement for people to walk as no pavements
- No guidance on how many car parking spaces required but future residents will most likely have three or four cars
- Width of road not adequate for additional traffic and not enough room for additional people to park if residents have visitors
- Gabion walls to reinforce the bank wall would destroy the only natural corridor left
- Traffic will be increased from Middleton Crescent which is a quiet road
- Increase in chance of serious accidents from additional traffic
- Middleton Crescent is not a suitable access road for this number of houses

- Repositioning of the garage for plot 14 is sited directly on the road and will have no proper sight lines for vehicles
- Swept path analysis shows a structure in the garden of plot 6 which is an error
- Tree survey suggest T7 and T8 are of no value but are young healthy oaks which provide a screening to the site
- Concerns trees and vegetation will be removed from southern boundary of site
- Incomplete tree survey as it does not show two semi-mature oak trees on the bank opposite rear of property between T7 and T8 which is a significant screening
- Disturbance of local flora and fauna
- Possible contamination of the Tottle Brook from excess surface water not being pumped up to Middleton Crescent
- Restrictions should be put in place to prevent the disturbance of wildlife
- Raise no objection as long as the access road will not go through Wollaton Vale
- Highway safety survey should be conducted
- Private access road serving no. 7A Middleton Crescent will become redundant and should be regenerated with the removal of the concrete boarded fencing
- Restrictive covenants on Middleton Crescent to prevent any through roads being developed on property land.

6 Appraisal

6.1 The main issues are considered to be the principle of the proposed development, if the development is acceptable in flood risk terms, the design and layout, parking, the relationship with neighbouring properties and if satisfactory Section 106 financial contributions have been agreed.

6.2 **Principle**

6.2.1 The site is currently overgrown and is within an existing residential area which provides an opportunity to provide additional housing outside of the Nottinghamshire Green Belt. There is also a significant need to boost housing supply which sites such as this can help deliver. The Council currently does not have a five year housing land supply and this can only be rectified with the allocation of sites currently in the Nottinghamshire Green Belt in the Broxtowe Part 2 Local Plan. The provision of 13 houses on this site (14 new houses proposed but 13 Middleton Crescent is to be demolished) is considered to be a benefit in terms of five year supply and provision of homes.

6.2.2 The density of the development falls below the threshold to comply with Local Plan Policy H6. However, if the Council is satisfied that the proposed density not meeting this threshold is not detrimental to the character and appearance of the area, a lower density can be agreed. In this case, it is acknowledged the properties along Appledore Avenue are on modest sized plots but the properties along Wollaton Vale and Middleton Crescent which mainly border the site are substantial sized properties with spacious plots that the principle of 14 dwellings on this sized plot would be in keeping with the surrounding area.

6.2.3 Whilst it is acknowledged a Green Corridor runs along the centre of the site, it is clear this hasn't been maintained for an extended period of time. The need for housing carries weight and the retention of this unmaintained Green Corridor is

considered to be of less weight than the in principle benefits of redeveloping this site for housing in an urban location.

6.3 **Flood Risk, Drainage and Foul Sewerage**

6.3.1 The site is located within Flood Zone 1 which is land with a low probability (between 1 in 1000) of river flooding. A Flood Risk Assessment (FRA) has been submitted with the application and the Environment Agency (EA) was consulted on the application. The EA raised no objection to the application subject to a pre-commencement condition requiring information in relation to tree planting along the Tottle Brook. The EA have advised that a permit is required by the developer in order to construct the gabion wall along the Tottle Brook.

6.3.2 Paragraphs 155 – 158 of the NPPF states that inappropriate development in areas of high risk of flooding should be avoided but where it is necessary, should be undertaken without increasing flood risk elsewhere.

6.3.3 From reviewing the FRA, it is considered that flood risk issues have been satisfactorily addressed. A number of mitigation measures are proposed within the FRA which include floor levels being set at least 2.1m above the Tottle Brook, finished floor levels being set 0.2m above surrounding ground levels of the houses and finished floor levels being set 37.1m above Ordnance Datum. An appropriate drainage strategy, in addition to the Drainage Statement, for discharging surface water has been advised to ensure flood risk off site is not increased as a result of the development. Due to the plans being amended, it is acknowledged the FRA will not be wholly accurate, in particular, section 4.3 states that an 8m standoff area from the top of the bank should be retained where no development, construction or planting can take place in order for the EA to carry out maintenance. However, the EA have clearly stated that a standoff of 8m from the Tottle Brook itself is acceptable as the site is located within Flood Zone 1, there are no formal flood defence structures within 8m of the brook and this part of the site is not used for direct management of the brook. It is considered a pre-commencement condition would be necessary to require an updated FRA which reflects the finalised plans if the development were approved. To conclude, it is considered the development is acceptable in terms of dealing with the issues of flooding.

6.3.4 The Lead Local Flooding Authority initially objected due to the absence of a Drainage Strategy. Further information has been provided to overcome this objection and a condition has been advised that a surface water drainage scheme is submitted.

6.3.5 A letter has been provided from Severn Trent Water which has been included within the Drainage Statement and referenced in the Foul Sewerage Assessment. It has been confirmed that a foul discharge for a maximum of 18 new dwellings could be accommodated if connected to the existing sewers along Middleton Crescent. Furthermore, Severn Trent Water confirms that the Tottle Brook is sufficient to accommodate surface water run-off from the development should this be required. Whilst the Drainage Statement states that discussions have taken place in relation to connecting to the sewers on Appledore Avenue, it recognises

that this is through third party land and would be subject to the agreement of that particular homeowner.

6.3.6 Whilst it is acknowledged there is concern raised in relation to flood risk, the amount of hardstanding proposed and drainage and foul sewerage, it is considered these issues have been satisfactorily addressed with appropriate mitigation measures within the FRA, Drainage Statement, discussions with Severn Trent Water and appropriate pre-commencement conditions. Subject to the 8m buffer zone with the Tottle Brook, permitted development rights should be removed for extensions and outbuildings for plots 1 - 5 to ensure that the area remains open for the lifetime of the development. To conclude, it is considered the development complies with the NPPF (2019) in flood risk terms, the Drainage Statement addresses the concerns raised by the LLFA and there is sufficient capacity to support the site in regards to foul sewerage.

6.4 **Amenity**

6.4.1 A number of amendments have been incorporated within the design and it is considered the application is acceptable in relation to the impact on surrounding neighbours. The properties that will be mostly affected by the scheme are those which directly adjoin the site on Appledore Avenue, Wollaton Vale and Middleton Crescent.

6.4.2 Nos. 165, 167 and 169 are link detached houses positioned to the west of the site. Plots 1 and 8 will be closest to the western boundary with these properties. The footprint of plot 1 has been handed so the longest projection of the property is set away from no. 165's boundary, the height of this property has been lowered by 1.2m and the front dormer window has been recessed in order to restrict views to the west. The land slopes down significantly and plot 1 will be positioned 0.2m lower than no. 165 (not including the proposed chimney). Plot 1 will not directly face no. 165 and the west (side) elevation of the proposed house will be blank and extend 8.2m. The detached garage on plot 1 will have a height to eaves of 2.9m and height to ridge of 5.6m and has been moved a further 2m from the boundary so the separation distance is 3.5m. It is considered the impact of the plot 1 on the amenity of no. 165 will be acceptable. To conclude no. 165 benefits from a sizeable garden which is approximately 28m in width and 16m in depth (measured at widest points). As no. 165 is positioned to the west of the site the loss of sunlight caused by plot 1 will not be detrimental. Taking the above into consideration, it is considered that plot 1 will not have a detrimental impact on the amenity of no. 165.

6.4.3 It is acknowledged that no. 167 Appledore Avenue has a garden that is approximately 12m in length. However, plots 1 and 8 are positioned to the north east and south east of no. 167 and therefore are not directly positioned to the rear of this garden. It is therefore considered there will not be a detrimental impact on no. 167 from plots 1 and 8.

6.4.4 No. 169 Appledore Avenue has a garden length which is approximately 14m in length and width. Whilst it is acknowledged plot 8 is beyond the rear garden of no. 169, the separation distance between these two properties is 20m which is considered an acceptable separation distance. Plot 8 will have a first floor

window in the west (side) elevation but due to the separation distance and orientation of the properties not directly aligning with each other, it is considered this will not cause an unacceptable amount of overlooking.

6.4.5 The land slopes up significantly so plots 1 – 5 will be at a higher level than the properties along Wollaton Vale. However, the separation distances range from a minimum of 30m to a maximum of 43m which is considered a sufficient distance to ensure no significant harm to amenity. Due to the condition of the trees along the north of the site on Tottle Brook, these will be removed and replaced with a mixture of trees as advised by the Tree Officer in order to provide a level of screening for the proposed houses. It is acknowledged that the removal of mature trees and replacement with younger trees will mean a period of time must be allowed in order for this boundary treatment to provide such a dense coverage which improves over time. Furthermore, the properties respond to the land level by being cut into it and there will be a visual break between each property which is considered to reduce the dominance of the properties along this boundary. It is therefore concluded that due to the separation distance between the properties and the reduction in size of the proposed houses, it is considered the impact from these properties will still be acceptable due to the substantial sized gardens of nos. 43, 45, 55, 57, 59 and 61 Wollaton Vale. A landscaping condition would provide control over the specification of future trees.

6.4.6 No. 13 Middleton Crescent will be demolished and replaced with a new house. Plot 14, house type E, has been reduced in height by 0.6m so that it will be lower than the existing property, no. 13. plot 14 will extend beyond the front elevation of no. 15 Middleton Crescent by 4m and will be relatively in line with the rear elevation of no. 15. The east (side) elevation of plot 14 will have three first floor windows serving an en-suite, bathroom and stairs. The bathroom windows have been annotated as obscurely glazed and along with the stairs window, would be conditioned as such to ensure overlooking is reduced to an acceptable level. Whilst it is acknowledged plot 14 would extend 4m beyond the front elevation of no. 15, it is considered this is acceptable given no. 15 has a 13m length driveway, there are no side facing windows in this projection and this is not a primary amenity area. No. 15 benefits from a sizeable rear garden which is 27m in length. No. 13 is currently vacant and the site is overgrown with vegetation and large conifers meaning no. 13 is obscured from view from the rear garden of no. 15. Whilst it is acknowledged a number of trees will be removed in order to demolish no. 13 and construct plot 14, the resultant impact of a replacement dwelling will not be dissimilar to the impact that would have been experienced by this dwelling before the site became overgrown. It is therefore concluded that plot 14 will not have a detrimental impact on the amenity of the occupants of no. 15.

6.4.7 No. 7A Middleton Crescent (included within the blue line on the site plan to denote the land under the control of the applicant) is positioned to the west and south of the site. Plot 10 will extend beyond the rear elevation of no. 7A by approximately 5m but this projection will be a blank elevation. There will be a separation distance between the two properties of 5m. No. 7A is a large property which benefits from a sizeable garden which is 32m in width and 14m in length. As plot 10 is positioned to the east of no. 7A, it is considered the loss of light experienced by no. 7A and the 5m rear projection will not be detrimental to the occupants of no. 7A. As no. 7A is at a higher level than plots 8 and 9 and due to

no. 7A's sizeable front driveway, it is considered the impact of these adjoining properties will be minimal.

6.4.8 Plots 6, 7, 9, 10, 11, 12 and 13 are a minimum of 25m from neighbouring properties adjoining the site which is considered a sufficient distance that there will not be a detrimental impact on their amenity. There are a number of trees and vegetation that extend across parts of the southern boundary (in the rear gardens of adjoining properties to the site) which will provide a level of obscurity from plots 10, 11, 12 and 13.

6.4.9 The proposed houses are relatively large and have adequate sized plots. They will have between four and six bedrooms, a garage and rear private garden with a patio. It is considered each plot is a sufficient size for future occupants and the design and layout has been considered that there is a sufficient separation distance from each property without an unacceptable amount of overlooking caused to each property. Furthermore, side facing windows would be conditioned to be obscurely glazed where necessary.

6.4.10 To conclude, it is acknowledged the topography of the site means the proposed houses will be more prominent in some locations than others. However, it is considered sufficient amendments such as reducing heights, removing second floors and amending the layout of the most prominently located houses are sufficient that the impact on the amenity of surrounding properties will be acceptable and will not cause a sense of enclosure or significant loss of daylight or sunlight.

6.5 **Design and Layout**

6.5.1 The majority of the site is enclosed by houses which have a variety of different sizes and styles meaning there is not a prevalent character within the area. The most prominent house from the development will be the replacement house of no. 13 Middleton Crescent. Middleton Crescent has a varying style of properties with some including double height bay windows, forward projections, dormers, chimneys and attached garages. It is considered house type E (plot 14) incorporates these design features and due to the varying character will not appear out of keeping with the street scene of Middleton Crescent.

6.5.2 Each house will have a mixture of hipped roofs with gable features, double height bay windows in the front elevations and chimneys. Some properties will have lean-to roofs and dormers. It is considered this mix of features breaks up the appearance of each property and reflects a traditional appearance which is mainly seen along Wollaton Vale and Middleton Crescent. A condition would be advised to ensure the appropriate external materials area used.

6.5.3 The end of each road has been amended to include 12m of hardstanding in line with Highway specifications for maintenance vehicles (see Parking and Highways section). A landscaping condition is considered sufficient to appropriately manage these areas in terms of their visual appearance.

6.5.4 Concerns have been raised in the representations that the new access road interrupts the layout of properties along Middleton Crescent. However, no. 13

Middleton Crescent will be replaced with a new dwelling and the new access road will be approximately 12m at its widest point with appropriate landscaping. It is considered a new access road will not appear out of keeping with the surrounding residential area.

6.5.5 To conclude, it is considered the proposed houses achieve an acceptable level of design, are positioned on adequate sized plots which respond to the plot sizes along Appledore Avenue and address the street scene appropriately along the new access road into the site. It is considered the proposal of 14 houses on this infill site makes a good use of a currently vacant site.

6.6 **Parking and Highways**

6.6.1 Each property will have a minimum of three car parking spaces which is considered sufficient for these sized houses. A number of concerns have been raised within the consultation responses in relation to the amount of traffic increasing along Middleton Crescent. Whilst it is acknowledged traffic will increase along this road, it is considered the proposal of 13 additional houses would not result in a detrimental amount of traffic. The Highways Authority have raised no concern over the amount of traffic that would be associated with this site.

6.6.2 The Highway Impact Statement demonstrates pre-application discussions have taken place with the Highways Authority. The statement confirms that appropriate visibility splays can be achieved when entering and exiting the site from Middleton Crescent, that an appropriate amount of parking has been provided for each property and that the site can be developed to an adoptable highway standard.

6.6.3 The plans were amended during the course of the application in line with the Highway Authority's comments and the main changes included changing the gradient of the road and including a pavement. Due to the change in the road level, a retaining wall between 0.5m – 1m high would extend across part of the west boundary of the road when entering the site and across part of the southern boundary of plot 13. To reduce the turning heads in line with the Highway specification for service vehicle manoeuvres, approximately 12m of the road has been replaced by hardstanding at each of the end points. This means that no. 10 and 11 would be served by a private road and a bin store has been positioned beyond the garage of no. 11.

6.6.4 The Highways Authority have recommended a pre-commencement condition in relation to a number of details including hardsurfacing driveways, drainage, the existing site access being made redundant, wheel washing facilities on site and information in relation to a number of details including visibility splays, gradients and a construction specification. An advisory to contact the Highways Authority in relation to the redundant access has been advised.

6.6.5 To conclude, it is considered that sufficient information has been submitted in relation to parking and highways and with the use of an appropriately worded condition for further information requested by the Highways Authority, the proposed development is acceptable in relation to parking and highways.

6.7 **Financial Contributions**

6.7.1 A residential development of this scale generates the need for financial contributions towards affordable housing, education, open space and integrated transport measures.

6.7.2 In accordance with paragraph 56 of the NPPF and the Community Infrastructure Levy (CIL) Regulations 2010, planning obligations can only be used if they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

6.7.3 The Business and Projects Manager has requested a contribution of £18,589.35 towards Beeston Fields Recreational Park for path and play area surfacing.

6.7.4 Nottinghamshire County Council has stated that the proposed development would yield an additional three primary school places within the Beeston Primary Planning Area which would necessitate a contribution of £40,968.

6.7.5 An integrated transport measures contribution of £36,000 has been requested by the Council in accordance with Appendix A of the Broxtowe Local Plan (2004).

6.7.6 An affordable housing contribution of £180,000 has been requested by the Council in accordance with Policy H5 of the Broxtowe Local Plan (2004) and Policy 8 of the Broxtowe Aligned Core Strategy (2014).

6.7.7 The applicant has agreed to the education, open space and integrated transport measures financial contributions. However, the applicant considers the request for an affordable housing contribution is unjustified as they have stated the site area is below 1ha.

6.7.8 The applicant has stated the site area has been calculated as being 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 has been omitted to avoid paying an affordable housing contribution and when this dwelling is included, the site area measures at 1.2 hectares and therefore meets the threshold for an affordable housing contribution.

6.7.9 In relation to the above, the term 'developable area' has been established in recent case law when assessing the size of the site in relation to an affordable housing contribution. In the case of Crane v Wycombe District Council [2018] (ref: APP/K0425/W/17/3192287), the appeal related to an outline application which proposed the demolition of five flats and alterations to access and erection of 14, one bedroom apartments. Wycombe District Council argued that a contribution was appropriate as the appeal site and the neighbouring site formed a "single developable area." The Inspector dismissed the appeal based on the physical links between both sites, the shared ownership and shared access arrangement and the revised NPPF (2018) highlighting the importance of the delivery of affordable housing.

6.7.10 Policy H5 of the Broxtowe Local Plan 2004 states that on housing sites of over 1 hectare or over 25 dwellings, the Council will seek to ensure that at least 25 per cent of dwellings built will be affordable or, exceptionally, that a financial contribution is made to facilitate off-site provision. Policy 8 of the Aligned Core Strategy (2014) establishes a 30 per cent target for affordable housing in Broxtowe Borough. Policy 15 of the draft Part 2 Local Plan establishes a 30 per cent affordable housing contribution is required on sites of more than 10 dwellings within the Beeston sub-market area. However, Policy 15 of the Part 2 Local Plan was subject to further consideration by the Inspector in a 'Post Hearing Advice Note' issued on 15 March 2019 and whilst the part of the policy that refers to the threshold of 10 units or more generating an affordable housing contribution of 30% or more in the Beeston submarket area wasn't queried, this policy can only be afforded limited weight. The draft Part 2 Local Plan has been subject to a Viability Assessment which shows that affordable housing delivery is viable across the Borough subject to differential approaches to delivery in different sub-market areas. For the Beeston submarket, the delivery level is set at 30% as it is a strong market.

6.7.11 The Housing Strategy and Development Officer has objected to the application as the site meets the threshold for an affordable housing contribution but has not been provided. It has been identified there is a high need for social and affordable home ownership particularly within the Beeston submarket area. The provision of an onsite or off-site contribution would help achieve a key outcome identified in Broxtowe Borough Council's Housing Strategy 2015 – 2020.

6.7.12 To conclude, in line with the NPPF (2019) and the information as stated above, there is a specific importance attached to the delivery of affordable housing. The draft Part 2 Local Plan has been subject to a Viability Assessment which shows that affordable housing delivery is viable across the Borough subject to differential approaches to delivery in different sub-market areas. For the Beeston submarket, the delivery level is set at 30%. It is therefore considered justifiable that the Council has requested a financial contribution of £180,000 for affordable housing based on the site measuring 1.2 hectares, due to the location of the scheme being within the most profitable area of Broxtowe Borough and no viability assessment being submitted. The application is therefore recommended for refusal on this basis.

6.8 **Other Issues**

6.8.1 Whilst it is acknowledged there will be a number of trees removed along the Tottle Brook, the Tree Officer has not recommended that any trees are worthy of a TPO (Tree Preservation Order). The plans have been annotated to retain T15 which is an oak tree. The agent has confirmed an intention to retain T19 which is an oak tree. A landscaping condition and condition required by the EA would ensure that appropriate species of trees are planted along this boundary.

6.8.2 The Nottinghamshire Wildlife Trust has stated that they are satisfied with the information provided in relation to the gabion wall and Ecology Survey and have advised a condition that works are carried out in accordance with this.

6.8.3 A laurel hedge extends across the boundaries separating nos. 13 and 15 Middleton Crescent and the agent has confirmed the intention is for this to be retained.

6.8.4 Cross sections were provided during the course of the application in order to enable an assessment of the proposed houses in relation to neighbours adjoining the site.

6.8.5 Although a balancing pond was proposed within the 09/00289/FUL application, this was for a higher density of housing (10 houses and 11 apartments). The Environment Agency have not requested a balancing pond for this application.

6.8.6 Whilst the previous application has been considered in line with this application, it should be noted that this scheme is different and policies have changed since this application was determined.

6.8.7 Concerns have been raised in regards to the removal of the Green Corridor which has been highlighted as being contrary to policy 29 of Regional Biodiversity Strategy. Whilst it is unclear which exact document is being referred to, the Biodiversity Strategy for the East Midlands is a document that is no longer in use and therefore carries no weight in decision making.

6.8.8 The Highways Authority has not raised any concerns in relation to the amount of parking proposed and the justification for the parking requirements for these sized properties is provided in the Highway Impact Statement.

6.8.9 The Highways Authority has advised the existing access to the site is made redundant subject to the new access being constructed. As this is private land, it would not be possible to request for the concrete fence to be removed.

6.8.10 Restrictive covenants are not a planning matter that can be taken into consideration with this application.

7 Conclusion

7.1 To conclude, 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. However, as the applicant has not agreed to provide any affordable housing contribution, the application is contrary to Policy H5 of the Broxtowe Local Plan (2004), Policy 8 of the Aligned Core Strategy (2014), Policy 15 of the draft Part 2 Local Plan and paragraphs 56 – 57 of the National Planning Policy Framework (2019) and should be refused.

Recommendation

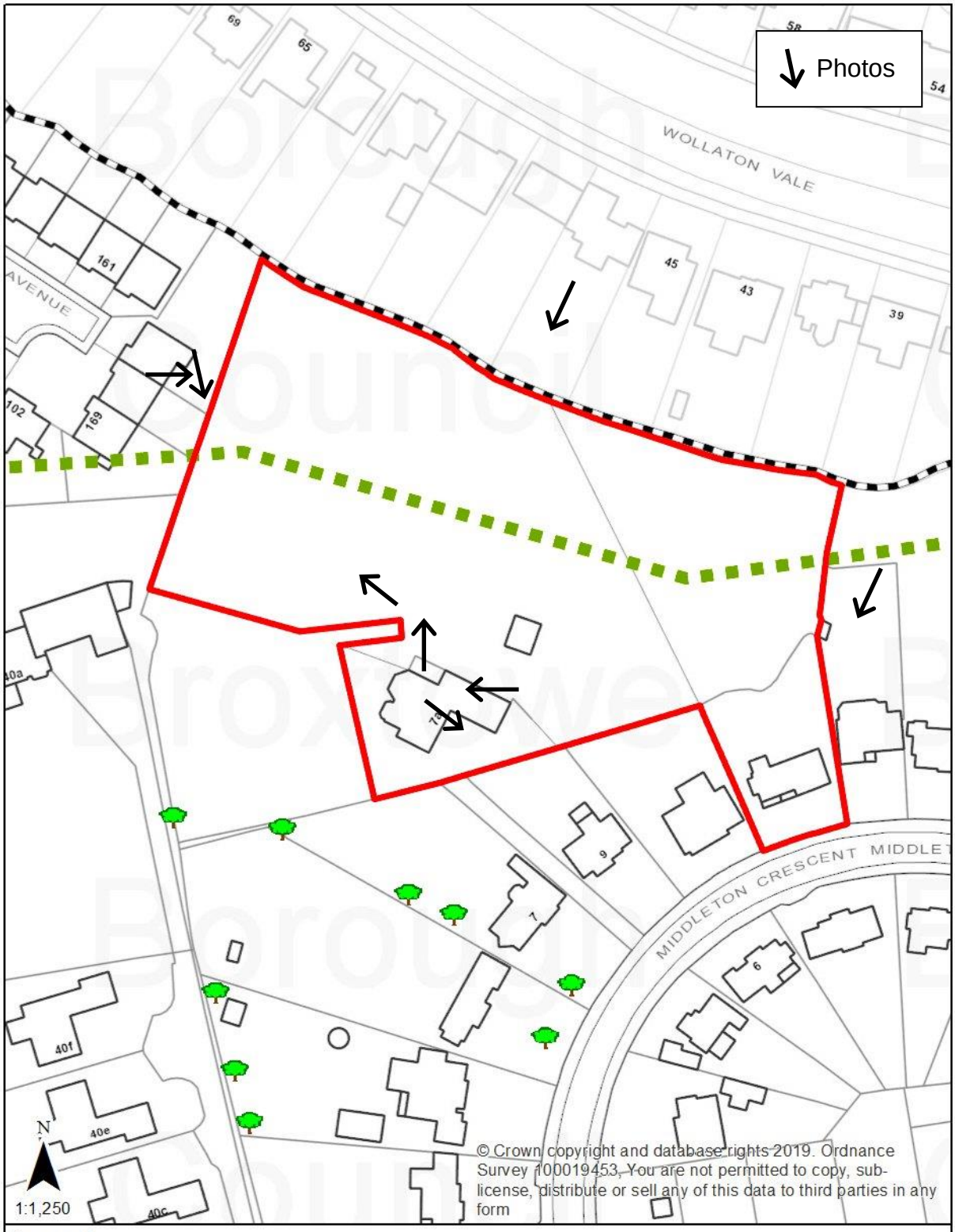
The Committee is asked to RESOLVE that planning permission be refused for the following reason:

The applicant has not agreed to provide any affordable housing contribution and the development is therefore contrary to Policy H5 of the Broxtowe Local Plan (2004), Policy 8 of the Aligned Core Strategy (2014), Policy 15 of the draft Part 2 Local Plan and paragraphs 56 – 57 of the National Planning Policy Framework (2019).

Note to applicant

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

Background papers
Application case file



Legend

- Site
- Single TPO
- Green Infrastructure Corridor