

**Application Number:** 2016/0745  
**Location:** Land To The Rear Of 94 Phoenix Avenue, Gedling, Nottinghamshire.



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## **Report to Planning Committee**

<b>Application Number:</b>	2016/0745
<b>Location:</b>	Land To The Rear Of 94 Phoenix Avenue, Gedling, Nottinghamshire.
<b>Proposal:</b>	Change of use of land from open space to residential curtilage.
<b>Applicant:</b>	Mr John Daft
<b>Agent:</b>	
<b>Case Officer:</b>	Lewis Widdowson

Members will recall that consideration of this application was deferred by the Planning Committee on 24 August 2016 pending comments from the Council's Estates Team. Comments have now been received and these are detailed in the consultations section of the report.

### **Site Description**

Located within the urban residential area of Gedling, the application site is an area of unused land to the rear of 94 Phoenix Avenue, adjacent to a public footpath connecting Phoenix Avenue to Mountbatten Grove. The site comprises of incidental open space and is currently in the ownership/control of the borough council. The site has a boundary with 94 Phoenix Avenue delineated by concrete and timber fencing of up to 2 metres in height and wooden picket fencing of approximately 1 metre in height. The site has a steep gradient, sloping upwards from east to west.

### **Proposed Development**

The application seeks planning permission for the change of use of land from incidental open space to residential curtilage. The applicant is owner/occupier of 94 Phoenix Avenue, and the change of use of this area of land would provide an extension to the rear garden area of the property of approximately 90m<sup>2</sup> in area. The remaining area of incidental open space would measure approximately 270m<sup>2</sup>.

### **Consultations**

Neighbouring properties were notified and a site notice was displayed – No letters of representation were received.

Nottinghamshire County Council Highways were consulted – No concerns or objections were raised.

Gedling Borough Council Estates Team - No objection to the application in principle. The Council's approach to selling land is that if there is no permission in place for the intended use, the Council would not sell. In this particular instance a planning application has been made to change the use of the council owned land from incidental public open space to garden land. If permission is granted and the Council takes the decision to sell the land, a covenant would be placed on the land sale to the effect that we share the uplift in value of the land should it ever be developed for a more valuable use.

### **Planning Considerations**

In my opinion, the main planning considerations in the determination of this application are the impact on residential amenity of neighbouring properties and visual impact of the proposal on the character and appearance of the locality. At the national level, the National Planning Policy Framework (March 2012) is relevant. At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF sees good design as a key element of sustainable development.

The following policies are relevant to the application:

National Planning Policy Framework:

Part 7 – Requiring good design

Gedling Borough Council Replacement Local Plan (Saved Policies 2008):

ENV1 – Development Criteria

Gedling Borough Council Aligned Core Strategy 2014:

Policy 10 – Design and Enhancing Local Identity

In accordance with Local Plan saved policies, development should be in keeping with the scale and character of the existing dwelling and its wider setting and should not cause unacceptable harm to the amenity of neighbouring residents.

The proposal would lead to the loss of a small area of incidental public open space; however, this would not have a harmful impact on the character of the area due to the steep gradient and small area of the site which means that it is of limited public benefit.

I am therefore satisfied that the increase of residential curtilage to 94 Phoenix Avenue would cause no harm to the character of the locality.

In terms of impact upon residential amenity of neighbouring dwellings, the proposed development is not considered to have adverse impact as the development would be separated from nearby residential curtilages by the remaining area of incidental open space which would remain in the ownership / control of the Borough Council.

The proposed development would not have any impact on an existing right of way to the south east of the site. Suitable boundary treatments are however required. This matter may be controlled by way of a planning condition; and is proposed.

For the reasons set out above, I am satisfied the proposed development accords with Saved Policies ENV1 of the Gedling Borough Replacement Plan as well as the NPPF. It is therefore recommended that planning permission is granted.

### **Recommendation:**

### **Grant Planning Permission subject to the following conditions:**

#### **Conditions**

1. The development must be begun not later than three years beginning with the date of this permission.
2. This permission shall be read in accordance with the following plan: 'Land at Phoenix Avenue Gedling' received by the Local Planning Authority on 27 June 2016. The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Borough Council.
3. Prior to the commencement of development, details of the proposed boundary treatments shall be submitted to and approved in writing by the Borough Council. The development shall be undertaken in accordance with the approved details.

#### **Reasons**

1. In order to comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and to define the terms of this permission.
3. In the interest of visual amenity and in accordance with Saved Policy ENV1 of the Gedling Borough Replacement Plan.

#### **Reasons for Decision**

In the opinion of the Borough Council the proposed development is visually acceptable, results in no significant impact on neighbouring residential properties and amenities, and results in no unduly detrimental harm to the character and setting of the locality. The proposal therefore accords with Policy 10 (Design and Enhancing Local Identity) of the Aligned Core Strategy 2014 and saved Policies ENV1 (Development Criteria) of the Gedling Borough Replacement Local Plan.

#### **Notes to Applicant**

You are advised that planning permission does not override any private legal matters

which may affect the application site, over which the Borough Council has no jurisdiction (e.g. covenants imposed by former owners, rights of light, etc.).

Planning Statement - The Borough Council has worked positively and proactively with the applicant in accordance with paragraphs 186 to 187 of the National Planning Policy Framework. During the processing of the application there were no problems for which the Local Planning Authority had to seek a solution in relation to this application.

The applicant is advised that all planning permissions granted on or 16th October 2015 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website. The proposed development has been assessed and it is the Council's view that CIL is not payable on the development given that there is no net additional increase of floorspace as a result of the development.