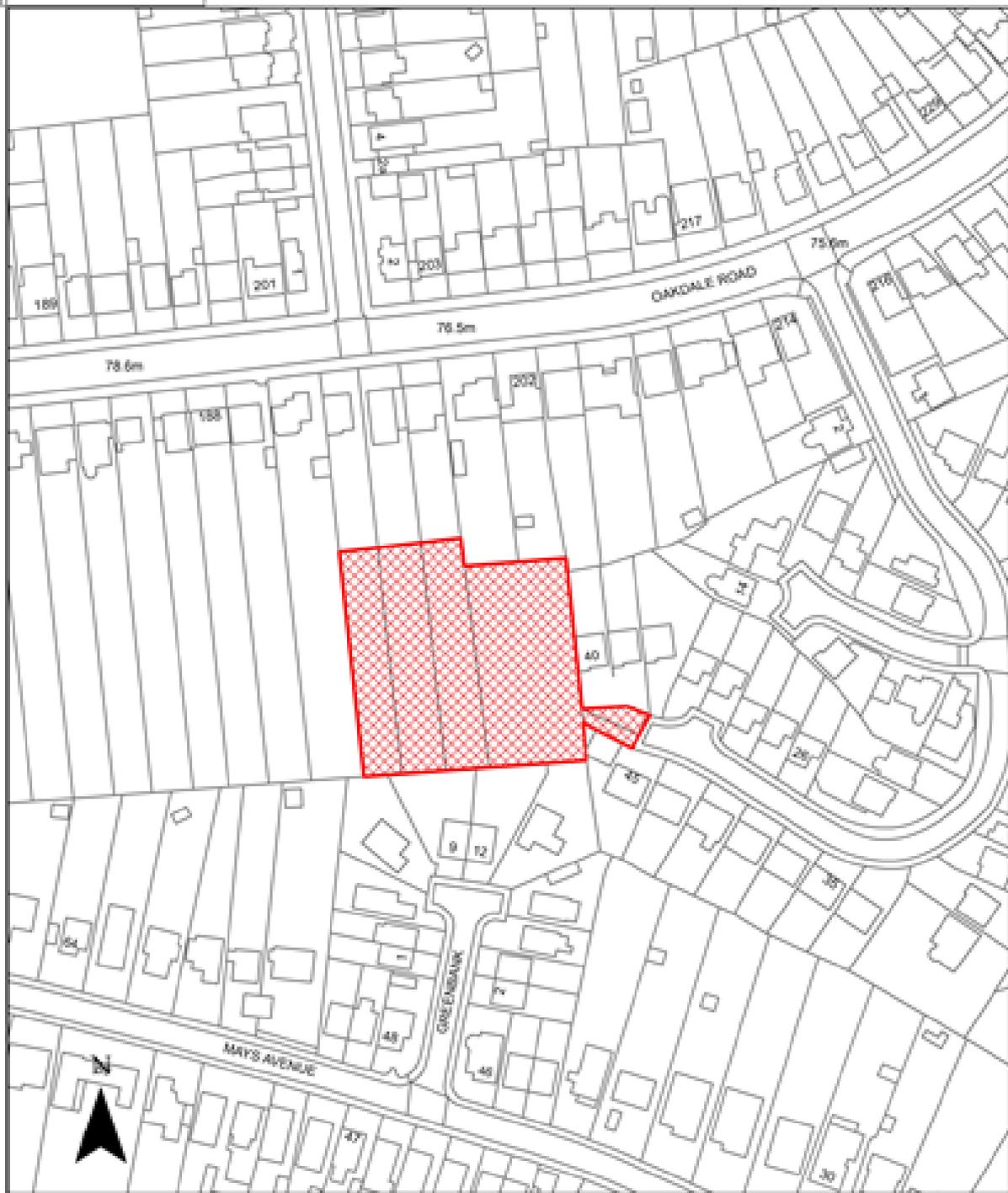




**Application Number:** 2016/0726  
**Location:** Land To The Rear Of 194, 196, 198, 200 And 202 Oakdale Road, Carlton, Nottinghamshire, NG4 1AH.



**NOTE:**  
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## **Report to Planning Committee**

<b>Application Number:</b>	2016/0726
<b>Location:</b>	Land To The Rear Of 194, 196, 198, 200 And 202 Oakdale Road, Carlton, Nottinghamshire, NG4 1AH.
<b>Proposal:</b>	Construction of 9 three bedroom houses and 3 four bedroom houses.
<b>Applicant:</b>	Mr Dale Smith-Kind
<b>Agent:</b>	Mr Daniel Lacey
<b>Case Officer:</b>	Nick Morley

### **Site Description**

The application site relates to land to the rear of 194, 196, 198, 200 and 202 Oakdale Road, Carlton. The land currently forms part of the rear garden areas to these properties and falls quite steeply in level away from the rear of these properties towards the southern boundary of the site.

The southern boundary of the site adjoins residential properties on Greenbank, which are set at a much lower level. The western boundary of the site adjoins the side boundary of the long rear garden to 192 Oakdale Road and the eastern boundary of the site adjoins the boundaries of properties on Poplar Close.

The site is currently grassed and contains a number of trees, predominantly in the south-western corner. Existing boundaries around and within the site are defined by fences and hedges.

### **Relevant Planning History**

In September 2013, full planning permission was granted under application no: 2013/0253 for the construction of 5 dwellings on the land to the rear of 198, 200 and 202 Oakdale Road, with access off the end of Poplar Close.

In September 2015, full planning permission was sought under application no: 2015/1094 for the construction of 13 dwellings on the land to the rear of 194, 196, 198, 200 and 202 Oakdale Road. This application was subsequently withdrawn.

### **Proposed Development**

Full planning permission is sought for the construction of 9 three bedroom houses and 3 four bedroom houses on the site, accessed via an extension to Poplar Close with a new turning head proposed at the western end of the site.

The properties on plots 1 to 7 on the upper parts of the site would have three storey front elevations and two storey rear elevations. Due to the difference in levels, these would have a front eaves height of 7 metres and a rear eaves height of 4.5 metres. The ridge heights of these plots would be between 9.5 and 10.25 metres.

The four bedroom house types on plots 5 to 7 would have integral garages, providing three off-street parking spaces for plots 5 and 6 and four off-street parking spaces for plot 7.

The three bedroom properties on plots 8 to 12, on the lower parts of the site, would have single storey front elevations with dormer windows, and two storey rear elevations. Due to the difference in levels, these would have a front eaves height of 3 metres and a rear eaves height of 5.5 metres. The ridge heights of these plots would be 8.3 metres. Plots 8 and 9, and 11 and 12 would be semi-detached.

Plots 8 to 12 would have two off-street parking spaces each.

Due to the difference in levels, all the plots would have terraced rear gardens, with gabion retaining walls.

1.8 metres high close boarded timber boundary fences are proposed to the site boundaries with the proposed plots and turning head and to the side rear gardens of the proposed plots.

In addition to the submitted forms and drawings, the application is supported by the following:

- Design & Access Statement
- Tree Survey
- Topographical Survey
- Swept Path Analysis

During processing of the application, revised drawings were submitted in order to improve the off-street parking facilities on plot 12 and 40 Poplar Close and to improve the relationship of plots 8 and 9 with existing residential properties on Greenbank.

At the request of the County Council, a Protected Species Appraisal was also submitted during processing of the application.

## **Consultations**

Local Residents - have been notified by letter, a site notice has been posted and the application has been publicised in the local press. I have received 12 letters and emails of representation from local residents in respect of the application as originally submitted, the contents of which can be summarised as follows:

### *Highway Issues*

- The proposed development would add considerably to the volume of traffic on Oakdale Road and Poplar Close, which was not designed for this. An average of 2 cars per household means an extra 24 cars.
- Access to the proposed site from the bottom of Poplar Close is unsuitable. An alternative, and more direct, access to the site from Oakdale Road should be considered, which would be much safer for both pedestrians and motorists.
- The junction of Poplar Close with Oakdale Road, which is also on a bus route, has

poor visibility and is often narrowed due to residents parking on both sides of the road and on the corners. There are also problems with cars breaking the speed limit on Oakdale Road. These all present a risk to residents, other pedestrians and traffic safety in general, which would be exacerbated if large and heavy construction vehicles are unable to easily pass through and access Poplar Close.

- The vehicular route from the bottom of Poplar Close to the Oakdale Road junction is potentially hazardous, uphill with a blind bend, making it hard for residents to reverse off drives. It is difficult to negotiate and vehicles are often abandoned in winter months as the steepest part of the road becomes impassable. In addition, the road is not gritted and there is no grit bin.
- There is very little on-road parking on Poplar Close, due to limited property driveways. Residents are concerned that the parking of construction traffic and private cars belonging to tradesmen working on site would cause major disruption. This is also a health and safety issue, as Poplar Close is not particularly wide and not suited to any amounts of vehicle parking. Alternative arrangements should be made to bring in the workforce for the duration of the construction project, such as mini-buses or park and ride.
- The development would significantly reduce the depth of the driveways of 38 and 40 Poplar Close and their ability to park cars.

#### *Residential Amenity Issues*

- Poplar Close is a quiet road, with no through traffic. There would be increased intrusive noise and disturbance caused by construction traffic and the actual construction, during the building phase, and subsequently by the increased residential and associated traffic, including visitors and various deliveries to the new properties. This would create road safety risks, particularly for children.
- The topography of the land is very uneven and there is a deep area towards the centre of the proposed site which would have to be filled to level the site out, prior to building. It is likely that large amounts of rubble and earth would have to be imported to the site in order to achieve this, or intensive re-shaping of the existing earth would have to be undertaken. This would have further impact upon the existing road and cause considerable mess and dust, which could have a detrimental effect to the health of residents living in the surrounding area [a photograph has been submitted in respect of this point].
- Vehicles using the proposed new access will be clearly visible from residential properties on Greenbank, which is lower than the application site. This would create noise pollution to these properties, unless a substantial retaining wall and fencing is constructed.
- Overlooking, leading to a loss of privacy, and overshadowing of adjacent residential properties on Poplar Close.
- There would be a loss of the natural boundary to Greenbank, which would take away security and privacy. This would be exacerbated by the difference in levels between the site and Greenbank, which has resulted in anti-social behaviour in the past.
- Odour nuisance due the close proximity of bin stores to adjacent residential properties.

### *Design & Layout Issues*

- An additional 12 properties would represent over-intensive development of the site and would change the character and feel of the end of a quiet cul-de-sac. Residents are concerned that if this development proceeds, there may be further developments into the neighbouring gardens of 192 Oakdale Road and beyond, (potentially 14 or more such gardens), leading to a further unacceptable increase in traffic and disruption. The developers should modify the proposed layout so that a further extension of Poplar Close would be impossible, without having to demolish one or more of these proposed new houses.
- Large amounts of existing vegetation would need to be removed. This would not only have a detrimental effect on wildlife in the area, it would also increase the risk of flooding to properties below the new development, onto Greenbank and Mays Avenue. Removal of large amounts of natural vegetation would mean that water would not be naturally absorbed, which leads to potential flooding of these lower properties. This has happened in the area previously.
- The proposed layout is designed to enable further houses to be built in future.

### *Other Issues*

- Ownership of the vegetation strip that borders the driveways of 38 and 40 Poplar Close is contested as this land has been maintained by the owners of these properties for 16 years. Strong objections are raised to the proposed access to this development.
- The large volume of such heavy vehicles could also lead to a risk of subsidence to properties and also to the road of Poplar Close itself. The existing houses toward the bottom of Poplar Close are built into the side of quite a steep hill and as such are susceptible to subsidence. The developers should carry out before and after surveys of the existing road and houses and be prepared to meet the cost of any repairs that their activities have caused [photographs have been submitted in respect of this point].
- Dirt would be brought onto the road from vehicles during construction. The developers should be committed to keeping the road clean during these works.
- Doubt is expressed about whether the water and sewage facilities are sufficient for this increased development.
- The proposed houses are unlikely to provide the much needed affordable housing for first-time buyers or your families, particularly the four bedroom houses.
- The applicant did not inform residents of these proposals prior to submitting the planning application.
- There would be a loss of existing views, which would be replaced by modern buildings.
- The destruction of the Greenbelt area would have an adverse impact on the quality of life for existing residents.
- Repeated applications have created uncertainty and made existing properties on Poplar Close difficult to sell.

- The applicant has not persuaded the owners of all the garden plots to sell their land for development.

### *Revised Drawings*

In response to re-consultation on the revised drawings, I have received two further written representations, which re-iterate previous comments made and which make the following additional comments:

- The proposed development would increase air pollution and be detrimental to the environment.
- A number of trees would be lost as part of the development.
- The existing gardens are an important wildlife habitat.

Nottinghamshire County Council (Strategic Planning) – outlines the National and County Planning Policy context and Strategic Planning Issues.

The following specific observations have been made:

### *Waste*

There are no existing waste sites within the vicinity of the site, whereby the proposed development could cause an issue in terms of safeguarding existing waste management facilities. However, as the proposal is likely to generate significant volumes of waste through the development or operational phases, it would have been useful for the application to have been supported by a waste audit.

### *Minerals*

The County Council does not wish to raise any objections to the proposal from a minerals safeguarding perspective.

### *Rights of Way*

No definitive paths are affected by this development.

### *Transport & Travel Services*

It is not envisaged that contributions towards local bus service provision will be sought, but bus stop improvements in the form of raised boarding kerbs and an enforceable bus stop clearway are requested to one bus stop (GE0295) on Trentdale Road.

### *Landscape & Visual Impact*

The slight reduction in housing density is welcomed and general comments are made about boundary treatments, levels and landscaping to reduce visual impact and privacy issues associated with the development.

### *Nature Conservation*

Following the submission of a Protected Species Appraisal, the County Council has no objections but recommends the imposition of an appropriate condition to control vegetation clearance during the bird nesting season.

### *Developer Contributions*

The County Council will require a primary education contribution of £34,365 and a secondary contribution of £34,520, which are needed to accommodate the additional pupils projected to arise from the proposed development.

The County Council will not be seeking a contribution towards libraries provision, the threshold for which is 50 dwellings or more.

Nottinghamshire County Council (Highway Authority) – observes that the revised topographical drawing, showing the hard standing length in front of 40 Poplar Close to be 5.5 metres in length, is now acceptable from a highways viewpoint.

A swept path analysis to show that a refuse lorry can turn and exit on the repositioned highway has also been provided and is acceptable.

The Highway Authority is satisfied that all outstanding issues with regards to carriageway widths and forward visibility splays have been resolved. In view of this the Highway Authority considers that the proposal is now satisfactory and has no objections.

A number of appropriate conditions are recommended [specific details of which have been provided], regarding:

- The development is constructed to adoptable standards;
- The carriageway works on Poplar Close are undertaken to the Highway Authority's standards and requirements;
- Gradients do not exceed 1 in 15 throughout the development;
- Visibility splays are provided in accordance with the approved plans and kept free from obstruction;
- Access drives and parking areas are surfaced in a bound material;
- Access drives and parking areas are constructed with provision to prevent the unregulated discharge of surface water onto the public highway; and
- Wheel washing facilities are installed and maintained in working order.

There are also a number of notes for the applicant [specific details of which have been provided].

Nottinghamshire County Council (Forestry) – no objections, subject to all root protection methods and barriers for any retained/neighbouring trees being implemented before and during construction phases.

Nottinghamshire County Council (Lead Local Flood Authority) – having considered the application, the LLFA has no objection.

Severn Trent Water – no objection to the proposal, so long as the development is not commenced until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

This is to ensure that the development is provided with a satisfactory means of drainage, as well as to reduce the risk of or exacerbating a flooding problem and to minimise the risk of pollution.

Public Protection – make the following comments regarding air quality:

Whilst the proposed development is unlikely to impinge on the Air Quality Management Area (due to the scale of the development), Public Protection would ask that the applicant is mindful of Section 124 of the NPPF; in particular sustaining ‘...compliance with and contribute towards EU limit values...’. Public Protection would recommend that an informative is placed on the application to encourage the applicant to consider mitigation in the form of electric vehicle charging infrastructure.

Economic Development – is supportive of this application. Due to the size of the site, Economic Development would not look to secure a Local Employment Agreement on this development.

### *Planning Considerations*

In addition to the over-arching planning policy and sustainable development considerations, the main planning considerations in relation to this application are the impact of the proposed development on highway safety and residential amenity; the design and layout of the proposed development; and the impact of the proposed development on the local ecology.

## **Most Relevant Policies & Background Information**

### *National Planning Policies*

National planning policy guidance is set out in the National Planning Policy Framework (NPPF), at the heart of which is a presumption in favour of sustainable development. With regard to delivering sustainable development, the following core planning principles of the NPPF are most relevant to this planning application:

- NPPF Section 6: Delivering a wide choice of high quality homes (paragraphs 47-55)
- NPPF Section 7: Requiring good design (paragraphs 56-68)
- NPPF Section 10: Meeting the challenge of climate change, flooding and coastal change (paragraphs 100-104)
- NPPF Section 11: Conserving & enhancing the natural environment (paragraphs 109-125)

With regard to plan-making and decision-taking, the following sections of the NPPF are most relevant to this planning application:

- NPPF: Ensuring viability and deliverability (paragraphs 173-177)
- NPPF: Planning conditions and obligations (paragraphs 203–206)

In March 2014, National Planning Practice Guidance (NPPG) was published. This provides guidance on how to apply policy contained within the NPPF.

### *Local Planning Policies*

Gedling Borough Council at its meeting on 10th September approved the Aligned Core Strategy (ACS) for Gedling Borough (September 2014), which is now part of the development plan for the area.

It is considered that the following policies of the ACS are most relevant to this planning application:

- ACS Policy A: Presumption in Favour of Sustainable Development

- ACS Policy 1: Climate Change
- ACS Policy 2: The Spatial Strategy
- ACS Policy 10: Design and Enhancing Local Identity
- ACS Policy 12: Local Services & Healthy Lifestyles
- ACS Policy 14: Managing Travel Demand
- ACS Policy 17: Biodiversity
- ACS Policy 18: Infrastructure
- ACS Policy 19: Developer Contributions

The Gedling Borough Replacement Local Plan (RLP) should now be referred to as the Gedling Borough Replacement Local Plan (Certain Policies Saved 2014). The following policies of the RLP are most relevant to this planning application:

- RLP Policy ENV1: Development Criteria
- RLP Policy H7: Residential Development on Unidentified Sites within the Urban Area and the Defined Village Envelopes
- RLP Policy T10: Highway Design and Parking Guidelines

Additionally, the Parking Provision for Residential Developments SPD (2012) and the 6C's Design Guide, which deals with highways and transportation infrastructure for new developments, are relevant.

#### Sustainability Considerations

The most relevant policies for this site that need to be considered in relation to sustainability are set out in Section 10 of the NPPF, Policies A, 1, 2 and 14 of the ACS and Policy H7 of the RLP.

Section 10 of the NPPF steers new development to areas with the lowest probability of flooding.

Policy A of the ACS requires that, where the development plan is out of date, planning permission should be granted unless:

- a) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework as a whole; or
- b) specific policies in that Framework indicate development should be restricted.

Policy 1 of the ACS states that all development proposals will be expected to deliver high levels of sustainability in order to mitigate against and adapt to climate change, and to contribute to national and local targets on reducing carbon emissions and energy use. It also states, amongst other things, that development will be supported that avoids areas of current and future flood risk.

Policy 2 of the ACS seeks to provide most development in or adjoining the main built up area.

Policy 14 of the ACS states that the need to travel, especially by private car, will be reduced by securing new developments of appropriate scale in the most accessible locations.

Policy H7 of the RLP sets the approach for dealing with residential development within the urban area and states that planning permission should be granted, subject to a number of specific criteria, which are assessed in detail under the Design and Layout Considerations.

### *Principle of Development*

Policy 2 of the ACS promotes a strategy of urban concentration with regeneration and seeks to provide most development in or adjoining the main built up area.

I note that the application site, apart from the access, is located within the urban area and consists of the lower parts of long rear gardens to several residential properties on Oakdale Road and that the adjacent development of Poplar Close, through which access is proposed to be obtained, was formerly the site of a single residential dwelling.

The application site is within the urban area and, as such, I am satisfied that the proposed development accords with the aims of Policy 2 of the ACS and Policy H7 of the RLP.

### *Accessibility*

I note that the Highway Authority has no objections to the proposed development and consider that the proposed off-street parking provision to serve the development is acceptable.

Whilst there are nearby bus stops on Oakdale Road, which provide good public transport links to Nottingham City Centre, accessibility to these is restricted to some extent by the gradient of Poplar Close.

Nevertheless, I am satisfied that the proposed development is of an appropriate scale and that any shortcoming in terms of accessibility is outweighed by the other considerations outlined in this report.

### *Flood Risk*

I note that the Lead Local Flood Authority has no objection to the proposed development, as the site is at low probability of flood risk, falling within Flood Zone 1. It therefore avoids areas which have been identified as being of current and future flood risk.

In conclusion, I am satisfied that the proposed development can be considered to be reasonably accessible and sustainable in accordance with Section 10 of the NPPF, Policies A, 1, 2 and 14 of the ACS and Policy H7 of the RLP.

### Highway Considerations

The relevant planning policies that need to be considered in relation to highway matters are set out in Policies ENV1 and T10 of the RLP and the Parking Provision for Residential Development SPD.

Policy ENV1 of the RLP states, amongst other things, that planning permission will be granted for development if it would not have a significant adverse effect on the amenities of adjoining occupiers or the locality in general, by reason of the level of activities on the site or the level of traffic generated. Development proposals should include adequate provisions for the safe and convenient access and circulation of pedestrians and vehicles and that, in this regard, particular attention will be paid to the needs of disabled people, cyclists, pedestrians and people with young children.

Policy T10 of the RLP refers to highway design and parking guidelines and states, amongst other things, that developers will not be required to provide more parking spaces than they consider necessary unless failure to provide enough off-street parking would harm road safety or prejudice the flow and management of traffic on nearby streets.

Whilst I appreciate the comments made by local residents with regard to traffic and parking, I note that, subject to the imposition of appropriate conditions, the Highway Authority has no objections to the proposed development, in terms of carriageway widths, forward visibility splays and the turning facilities for large vehicles.

The Highway Authority is also satisfied that there revised drawings demonstrate that there would be adequate off-street parking provision for adjacent residential properties at the end of Poplar Close.

In addition, the Highway Authority has recommended the imposition of a condition requiring the provision of wheel washing facilities for construction traffic. Management of site construction traffic is a separate matter for the developer.

The proposed parking provision for the proposed development fully meets the Borough Council's Parking Provision for Residential Developments SPD, in that it provides 2 allocated off-street parking spaces for each of the three bedroom dwellings; 3 allocated off-street parking spaces for two of the four bedroom dwelling; and 4 allocated off-street parking spaces for one of four bedroom dwellings.

The 5 three bedroom dwellings also generate a total requirement for 1.5 unallocated spaces, which can be easily accommodated on the proposed access road.

It is considered, therefore, that the proposed development would provide access, parking and turning arrangements in accordance with Policies ENV1 and T10 of the RLP and the Parking Provision for Residential Development SPD.

#### Residential Amenity Considerations

The relevant planning policies that need to be considered in relation to residential amenity are set out in Policy 10 of the ACS and Policy ENV1 of the RLP.

Policy 10 of the ACS states, amongst other things, that development will be assessed in terms of its treatment of the impact on the amenity of nearby residents and occupiers.

Policy ENV1 of the RLP states, amongst other things, that planning permission will be granted for development provided that it would not have a significant adverse effect on the amenities of adjoining occupiers or the locality in general, by reason of the level of activities on the site or the level of traffic generated. This is reflected more broadly in Policy 10 of the ACS.

Whilst I appreciate the comments of local residents, I am satisfied that the design and layout of the proposed development, as demonstrated by the revised site layout and cross-sections, would ensure that there is no undue overshadowing, overbearing or overlooking impacts on existing adjacent residential properties, particularly those on Greenbank and Poplar Close.

Although residential properties on Greenbank are sited at a significantly lower level, I am satisfied that the proposed treatment of the rear garden areas of the adjacent plots would minimise any undue overlooking impacts.

Whilst vehicles using the proposed new access would be visible from some of these properties, I note that the proposed carriageway is 11 metres from the site boundary at its nearest point which, combined with the difference in levels, would mitigate any adverse impacts.

The removal of trees from within the site would reduce the natural boundary with some properties on Greenbank, but it is proposed to construct a 1.8 metres high close boarded fence along this boundary, which would ensure that security and privacy to these is maintained. In addition, development of the site would remove the anti-social behaviour problems previously experienced by these properties.

In my opinion, the proposed development would not have an unduly detrimental impact on the amenity of nearby residents in accordance with the aims of Policy 10 of the ACS and Policy ENV1 of the RLP.

### Design & Layout Considerations

The relevant planning policies which need to be considered in relation to the design of a proposed development of this scale are set out in Sections 6 and 7 of the NPPF, Policy 10 of the ACS and Policies ENV1, H7 and T10 of the RLP. The 6C's Design Guide and the Parking Provision for Residential Development SPD are also relevant.

Section 6 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and that local planning authorities should plan for a mix of housing.

Section 7 of the NPPF states that planning decisions should aim to ensure that developments will function well and add to the overall quality of the area; respond to local character and history; and are visually attractive as a result of good architecture and appropriate landscaping.

Policy 10 of the ACS requires all new development to be designed to a high standard and sets out in detail how this should be assessed. All new development should make a positive contribution to the public realm and sense of place and create an attractive, safe, inclusive and healthy environment. The most relevant design elements in this instance include the layout; density and mix; impact on the amenity of nearby residents and the incorporation of features to reduce opportunities for crime and anti-social behaviour.

Policy ENV1 of the RLP states, amongst other things, that planning permission will be granted for development provided that it is of a high standard of design which has regard to the appearance of the area and does not adversely affect the area by reason of its scale, bulk, form, layout or materials. Policy ENV1 also states that development proposals should include adequate provisions for the safe and convenient access and circulation of pedestrians and vehicles.

Policy H7 of the RLP sets the approach for dealing with residential development within the urban area. It states planning permission should be granted provided the development:

- a. It is of a high standard of design and does not adversely affect the area by reason of its scale, bulk, form, layout or materials;
- b. It would not result in the loss of buildings or other features, including open space, which make an important contribution to the appearance of the area; and
- c. It is not contrary to other policies in the Local Plan.

Policy T10 of the RLP states that in considering proposals for new development, reference will be made to the Highway Authority's design and parking guidelines.

The application site is within the main built up area of Carlton and would not result in the loss

of buildings or features which make an important contribution to the appearance of the area.

The proposed layout has been revised in order to reduce the potential impact on properties sited at a lower level on Greenbank and the proposed split-level houses have been designed so as to make best use of the site levels. This reflects the design approach already taken on the adjacent Poplar Close development.

I note that the Highway Authority is satisfied with the proposed layout and that off-street parking provision would be provided in accordance with the Parking Provision for Residential Development SPD.

In my opinion, an additional 12 properties would not represent over-intensive development of the site and would be an appropriate extension of the existing residential development on Poplar Close.

Whilst the proposed layout has been designed so as not to sterilise the potential for further development to the west of the site at some time in the future, I would advise that any subsequent applications of this nature would be assessed on their own merits.

Development of the site would also help to reduce opportunities for crime and the fear of crime, disorder and anti-social behaviour, in accordance with the aims of Policy 10 of the ACS and Section 17 of the Crime and Disorder Act 1998.

I am satisfied, therefore, that the proposed development has regard to the appearance of the area and would make a positive contribution to the public realm and create an attractive, safe, inclusive and healthy environment for its residents.

It is considered, therefore, that the design of the proposed development would be in accordance with Sections 6 and 7 of the NPPF, Policy 10 of the ACS and Policies ENV1, H7 and T10 of the RLP and the 6C's Design Guide and the Parking Provision for Residential Development SPD.

### Ecological Considerations

The relevant planning policies that need to be considered in relation to ecological matters are set out in Section 11 of the NPPF and Policy 17 of the ACS.

Section 11 of the NPPF advises, at paragraph 118, that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying a number of principles, including the encouragement of opportunities to incorporate biodiversity in and around developments. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Policy 17 of the ACS states that development on or affecting non-designated sites or wildlife corridors with biodiversity value will only be permitted where it can be demonstrated that there is an overriding need for the development and that adequate mitigation measures are put in place.

In this respect, I note that a Protected Species Appraisal has been provided and that the County Council's Nature Conservation Unit has no objections on ecological grounds, subject to the imposition of an appropriate condition to control vegetation clearance during the bird nesting season.

I am satisfied, therefore, that the proposed development would protect existing areas of biodiversity interest and that the landscaping of the proposed development would provide new biodiversity features.

As such, I consider that the proposed development would accord with the aims of Section 11 of the NPPF and Policy 17 of the ACS.

### Planning Obligations

The relevant planning policies which need to be considered in relation to S106 planning obligations for infrastructure and local services are set out in Policies 12, 18 and 19 of the ACS and paragraphs 173-177 and 203-205 of NPPF in relation to plan-making and decision-taking.

Policy 12 of the ACS states that where appropriate, contributions will be sought to improve existing community facilities provision, where the scale of residential development does not merit developers providing community facilities provision directly.

Policy 18 of the ACS requires new development to be supported by the required infrastructure (including any necessary community facilities) and that contributions will be sought from developers for infrastructure needed to support the development. This is in line with the planning obligations tests set out in paragraph 204 of the NPPF.

Policy 19 of the ACS states that all development will be expected to:

- Meet the reasonable cost of new infrastructure required as a consequence of the proposal;
- Where appropriate, contribute to the delivery of necessary infrastructure to enable the cumulative impacts of developments to be managed, including identified transport infrastructure requirements; and
- Provide for the future maintenance of facilities provided as a result of the development.

Paragraph 173 of the NPPF states that to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

Paragraph 204 of the NPPF states that planning obligations should only be sought where they meet all of the following tests:

- 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.

With regard to infrastructure, I note that the County Council has requested improvements to a nearby bus stop on Oakdale Road and consider that this is necessary, reasonable and related to the proposed development, in that it will increase the attractiveness of the local bus service to potential users and reduce obstruction of the bus stop by parked vehicles.

With regard to educational facilities, I note that the County Council has requested financial contributions towards both primary and secondary education and consider that this is necessary, reasonable and related to the proposed development in that it is calculated from the number of primary and secondary places which the proposed development is expected to generate.

### Other Issues

With regard to other issues raised, I would comment as follows:

- There is separate legislation to control other potential sources of nuisance to existing residents, such as odour nuisance from bin stores.
- The disposal of surface water from the proposed dwellings would be dealt with under the Building Regulations and from the new access road by the Highway Authority.
- The applicant's agent has confirmed that the vegetation strip within the red line site plan at the end of Poplar Close is within the applicant's ownership.
- Potential subsidence damage to nearby properties due to construction traffic is not a material planning consideration.
- Severn Trent Water has raised no concerns about the adequacy of the water and sewage facilities to serve the proposed development.
- The site is below the threshold of 15 dwellings for affordable housing provision.
- There is no statutory obligation for an applicant to give prior notification of a planning application.
- The loss of existing views is not a material planning consideration.
- The application site is within the urban area and not within the Green Belt.
- I appreciate that the proposed development may create uncertainty for the local housing market, but this is not a reason to justify the refusal of planning permission for sustainable development.
- The fact that the applicant does not own the whole of the application site does not prevent the Borough Council from determining the current planning application, as planning permission does not override any private legal matters which may affect the application site, over which the Borough Council has no jurisdiction.
- The County Council has raised no objections to the loss of trees on either arboricultural or ecological grounds.

### Conclusion

The development has been considered in accordance with the National Planning Policy Framework, the Aligned Core Strategy for Gedling Borough (September 2014) and the Gedling Borough Replacement Local Plan (Certain Policies Saved 2014), where appropriate.

In my opinion, the proposed development largely accords with the relevant policies of these frameworks and plans. Where the development conflicts with the Development Plan, it is my opinion that other material considerations indicate that permission should be granted. The

benefits of granting the proposal outweigh any adverse impact of departing from the Development Plan.

Planning obligations are being sought in accordance with the requirements of the NPPF.

### **Recommendation:**

**That the Borough Council GRANTS FULL PLANNING PERMISSION, subject to the applicant entering into a Section 106 Agreement with the County Council as local highway and education authority for the provision of, or financial contributions towards, Bus Stop Infrastructure and Educational Facilities; and 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. The development hereby permitted shall be constructed and implemented in accordance with the following approved plans and documents: House Types 1, 2 (2 no.) and 3 (DL/326/211, DL/321/212, DL/321/213, DL/321/214), received on 16th June 2016; Proposed Site Layout: Detailed Access Set-Out (DL/321/215A Rev A), Proposed Site Layout: Plan, Site Sections & Street Elevations (DL/321/201 Rev C), and Proposed Site Layout: Site Sections 3 & 4 (DL/321/216), received on 13th September 2016.
3. Before development is commenced there shall be submitted to and approved in writing by the Borough Council details of the materials to be used in the external elevations of the proposed buildings. Thereafter the development shall be carried out in accordance with approved materials, unless otherwise prior agreed in writing by the Borough Council.
4. Before development is commenced there shall be submitted to and approved writing by the Borough Council details of the means of surfacing of the access, car parking areas, turning and servicing areas and other unbuilt on portions of the site. The access, car parking areas, turning and servicing areas and other unbuilt on portions of the site shall be provided and completed in accordance with the approved details before the development is first brought into use and the parking, turning and servicing areas shall not be used for any other purpose other than the parking, turning, loading and unloading of vehicles.
5. Before development is commenced there shall be submitted to and approved by the Borough Council a landscape plan of the site showing the position, type and planting size of all trees, hedges, shrubs or seeded areas proposed to be planted. The approved landscape plan shall be carried out in the first planting season following the substantial completion of the development. If within a period of five years beginning with the date of the planting of any tree, hedge, shrub or seeded area, that tree, shrub, hedge or seeded area, or any tree, hedge, shrub or seeded area that is planted in replacement of it, is removed, uprooted or destroyed or dies, or becomes in the opinion of the Borough Council seriously damaged or defective, another tree, shrub or seeded area of the same species and size as that originally planted shall be planted at the same place, unless otherwise prior agreed in writing by the Borough Council.

6. Before development is commenced, including vegetation clearance or ground works, the existing trees to be retained, and any neighbouring trees, shall be protected in accordance with the details specified in the Arboricultural Survey, dated 7th May 2013 by Forest Farm Tree Services. The means of protection shall be implemented in accordance with the approved details for the duration of the construction period, unless otherwise prior agreed in writing by the Borough Council.
7. Before development is commenced there shall be submitted to and approved in writing by the Borough Council details of the new road, including longitudinal and cross sectional gradients, visibility splays, street lighting, drainage and outfall proposals, construction specification, provision of and diversion of utilities services, and any proposed structural works. The development shall be constructed in accordance with the approved details, which shall be retained for the lifetime of the development, unless otherwise prior agreed in writing by the Borough Council.
8. Before development is commenced there shall be submitted to and approved in writing by the Borough Council details of the proposed adoptable carriageway/footways, which shall be constructed with a gradient not exceeding 1 in 15 throughout the development. The development shall be constructed in accordance with the approved details, which shall be retained for the lifetime of the development, unless otherwise prior agreed in writing by the Borough Council.
9. Before development is commenced there shall be submitted to and approved in writing by the Borough Council details of measures to prevent the unregulated discharge of surface water from the access driveways, parking and turning areas. No part of the development hereby permitted shall be brought into use until the access driveways, parking and turning areas have been constructed in accordance with the approved details, which shall be retained for the lifetime of the development, unless otherwise prior agreed in writing by the Borough Council.
10. Before development is commenced there shall be submitted to and approved in writing by the Borough Council details of wheel washing facilities to be installed on the site. The approved wheel washing facilities shall be maintained in working order at all times during the construction phase, unless otherwise prior agreed in writing by the Borough Council, and shall be used by any vehicle carrying mud, dirt or other debris on its wheels before leaving the site so that no mud, dirt or other debris is discharged or carried on to a public road.
11. No part of the development hereby permitted shall be brought into use until the carriageway works on Poplar Close, as shown on drawing no: DL/321/215A Rev A, have been constructed in accordance with the approved details. The carriageway works shall be retained for the lifetime of the development, unless otherwise prior agreed in writing by the Borough Council.
12. No part of the development hereby permitted shall be brought into use until forward visibility is provided in accordance with the approved plans. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions and shall be retained for the lifetime of the development, unless otherwise prior agreed in writing by the Borough Council.
13. No part of the development hereby permitted shall be brought into use until all drives and parking areas have been surfaced in a bound material (not loose gravel). The surfaced drives and parking areas shall then be maintained in such bound material for the lifetime of the development, unless otherwise prior agreed in writing by the Borough Council.

14. No removal of hedgerows, trees or shrubs shall take place on site during the bird nesting season (1st March to 31st August inclusive in any given year), unless pre-commencement checks for nesting birds have been undertaken by an appropriately qualified ecologist and the outcome reported to the Borough Council. If any nesting birds are found to be present, details of any proposed mitigation measures shall be submitted to and approved in writing by the Borough Council before the development commences. The mitigation measures shall be implemented in accordance with the approved details before development commences, unless otherwise prior agreed in writing by the Borough Council.

## **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 allow a proportionate approach to minor material amendments.
3. To ensure that the materials to be used in the external elevations of the proposed building are satisfactory, in accordance with the aims of Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2014).
4. To ensure that the means of surfacing of the development are satisfactory and to ensure a satisfactory development, in accordance with the aims of Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2014).
5. To ensure that the landscaping of the proposed development accords with Policy 10 of the Aligned Core Strategy for Gedling Borough (September 2014) and Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2014).
6. To minimise any potential impacts on biodiversity and the landscape in accordance with Section 11 of the National Planning Policy Framework and Policy 17 of the Aligned Core Strategy for Gedling Borough (September 2014).
7. To ensure the development is constructed to adoptable standards, in accordance with the aims of Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2014).
8. In the interests of general highway safety, in accordance with the aims of Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2014).
9. To ensure surface water from the site is not deposited on the public highway causing dangers to road users, in accordance with the aims of Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2014).
10. To reduce the possibility of deleterious material being deposited on the public highway in the interests of highway safety, in accordance with the aims of Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2014).
11. To ensure the carriageway works are constructed to the Highway Authority's standards and requirements, in accordance with the aims of Policy ENV1 of the

Gedling Borough Replacement Local Plan (Certain Policies Saved 2014).

12. To maintain the visibility splays throughout the life of the development and in the interests of general highway safety, in accordance with the aims of Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2014).
13. To reduce the possibility of deleterious material being deposited on the public highway in the interests of highway safety, in accordance with the aims of Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2014).
14. To minimise any potential impacts on biodiversity in accordance with Section 11 of the National Planning Policy Framework and Policy 17 of the Aligned Core Strategy for Gedling Borough (September 2014).

### **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.).

The applicant is advised that all planning permissions granted on or after 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 hereby approved as the development type proposed is zero rated in this location.

It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.

This consent will require approval under Section 19 of the Nottinghamshire County Council Act 1985 and where the new streets are to be adopted an Agreement pursuant to Section 38/278 of the Highways Act 1980 will be required. Please contact Nottinghamshire County Council to ensure that approvals and agreements are secured before commencement of works.

The applicant should note that notwithstanding any planning permission that if any highway forming part of the development is to be adopted by the Highways Authority, the new roads and any highway drainage would be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks, the 6C's Design Guide.

The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment would be required from the owner of the land fronting a private street on which a new building is to be erected. The developer should contact the Highway Authority with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete, so it is recommended that the developer contact the Highway Authority as early as possible.

It is strongly recommended that the developer contact the Highway Authority at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council in writing before any work commences on site.

The applicant's attention is drawn to an informal planning guidance document which has been produced to try and define what sustainable development means in the context of air quality, and how the development might help decrease levels by incorporating mitigation measures into scheme design as standard:

<http://www.gedling.gov.uk/planningbuildingcontrol/planningpolicy/emerginglocalplan/supplementaryplanningdocuments/>)The Borough Council requests that the applicant considers the commitment to incorporate provision for an EV (electric vehicle) charging point(s); to allow residents to charge electric/plug-in hybrid vehicles (see guidance produced by IET Code of Practice for EV Charging Equipment Installation for details of charging points and plugs specifications).

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 0845 762 6848. Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk). Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).

The Borough Council has worked positively and proactively with the applicant, in accordance with paragraphs 186 and 187 of the National Planning Policy Framework, based on seeking solutions to problems arising in relation to dealing with the planning application. This has been achieved by providing details of issues raised in consultation responses; requesting clarification, additional information or drawings in response to issues raised; and providing updates on the application's progress.