



Planning Report for 2018/0926



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Report to Planning Committee

Application Number:	2018/0926
Location:	Land On The North Side Of Briarbank Avenue Carlton
Proposal:	Erect 12 No. apartments (resubmission of 2018/0365).
Applicant:	Tindall Developments Ltd
Agent:	Apex Design
Case Officer:	Graham Wraight

1 Site Description

- 1.1 The site is located to the rear of Nos. 1 to 15 Briarbank Avenue and is accessed by a private access located between No.15 Briarbank Avenue and several dwellings that front onto Rowan Walk and Honeywood Drive. The northern part of the site is heavily vegetated and rises steeply upwards with this area of land being protected open space, as defined by Policy LPD 20 of the adopted Local Planning Document. The southern part of the site, on which the proposed development would be located, is relatively flat and is predominantly hard surfaced.
- 1.2 The dwellings located to south and west are bungalows, some of which have accommodation in their roof space, and the dwellings to the east are two storey in height. All of the adjacent dwellings have their rear elevations facing towards the site and there are various established boundary treatments on the site boundary.

2 Relevant Planning History

- 2.1 2004/1608 – Erection of 14 No. 2-bed flats with associated parking and bin storage areas – Approved with conditions, permission has expired.
- 2.2 2008/0333 – Erection of 14 No. 2 bedroom flats (See previous approval 2004/1608) – Refused.
- 2.3 2009/0034 – Proposed erection of 14 no. 2 Bedroom Flats and associated works – Approved with conditions, permission has expired.
- 2.4 2018/0365 – Erect 14no. apartments – Refused at Planning Committee on 5th September due to the adverse impact that the three storey development

would have on the upon the character and appearance of the area and street scene.

3 Proposed Development

- 3.1 The proposed development consists of three blocks of flats, comprising a total of 12 dwellings. The proposed buildings would be two storey in height with a maximum height of approximately 8.1 metres and the front elevations would be constructed using brick, render and cladding. All of the flats proposed would be two bedroomed and 16 car parking spaces would be provided, in addition to cycle storage and a bin store.
- 3.2 The development differs from the proposal that was refused under reference 2018/0365 as it no longer includes development that is three storey in height. This has had the result of reducing the height from approximately 10.4 metres to the height of approximately 8.1 metres that is now proposed.

4 Consultations

- 4.1 Gedling Borough Council Economic Development – a Local Labour Agreement would be required.
- 4.2 Gedling Borough Council Housing Strategy – no comments received but proposal does not meet the threshold for affordable housing provision.
- 4.3 Gedling Borough Council Parks and Street Care – no comments received but does not meet the threshold for requiring public open space provision.
- 4.4 Gedling Borough Council Scientific Officer – no objection, recommends conditions relating to land contamination, electric vehicle charging and a construction emissions management plan.
- 4.5 Nottinghamshire County Council Highways – no objection subject to conditions relating to parking and bin collection areas.
- 4.6 Nottinghamshire County Council Lead Local Flood Authority – no comments to make.
- 4.7 Nottinghamshire County Council Planning Policy – conditions should be imposed relating to vegetation clearance, protection of retained vegetation, bat and bird boxes and lighting.
- 4.8 Nottingham City Council Education – no education contribution required.
- 4.9 NHS – no healthcare contribution required.
- 4.10 A press notice has been published, a site notice displayed and neighbour notification letters posted. Two objections have been received and these are summarised as follows:
- The flats are too close to existing dwellings and will block light and overlook
 - Not in keeping with scale of surrounding development
 - Damage to access road during construction

- What happens with drainage?

5 Assessment of Planning Considerations

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'.
- 5.2 The most relevant national planning policy guidance in the determination of this application is contained within the National Planning Policy Framework 2018 (NPPF) and the additional guidance provided in the National Planning Practice Guidance (NPPG)

6 Development Plan Policies

- 6.1 The following policies are relevant to the application:

- 6.2 National Planning Policy Framework 2018

Sets out the national objectives for delivering sustainable development. Sections 5 (Delivering a sufficient supply of homes), 11 (Making effective use of land) and 12 (Achieving well-designed places) are particularly relevant.

- 6.3 Greater Nottingham Aligned Core Strategy Part 1 Local Plan

Policy A – Presumption in Favour of Sustainable Development – a positive approach will be taken when considering development proposals

Policy 1: Climate Change – all development will be expected to mitigate against and adapt to climate change including with respect to flood risk.

Policy 8: Housing Size, Mix and Choice – sets out the objectives for delivering new housing.

Policy 10 –Design and Enhancing Local Identity – sets out the criteria that development will need to meet with respect to design considerations.

- 6.4 Local Planning Document (Part 2 Local Plan)

The Local Planning Authority adopted the Local Planning Document (LPD) on the 18th July 2018. The relevant policies to the determination of this application are as follows:

LPD 11: Air Quality – states that planning permission will not be granted for development that has the potential to adversely impact upon air quality unless measures to mitigate or offset have been incorporated.

LPD 20: Protected Open Space – states that planning permission will not be granted for development on land that is used or was last used as open space, unless one of the stated criteria is met.

LPD 32: Amenity – planning permission will be granted for proposals that do not have a significant adverse impact on the amenity of nearby residents or occupiers.

LPD 33: Residential Density – states that planning permission will not be granted for proposals of less than 30 dwellings per hectare unless there is convincing evidence of a need for a different figure.

LPD 35: Safe, Accessible and Inclusive Development – sets out a number of design criteria that development should meet, including in relation to the massing, scale and proportion of development.

LPD 37: Housing Type, Size and Tenure – states that planning permission will be granted for residential development that provides for an appropriate mix of housing.

LPD 40: Housing Development on Unallocated Sites – sets out the criteria that new housing development should meet, including in relation to design, residential amenity and parking.

LPD 48: Local Labour Agreements – sets out the thresholds where a Local Labour Agreement will be required.

LPD 57: Parking Standards – sets out the requirements for parking.

LPD 61 – Highway Safety – states that planning permission will be granted for developments that do not have a detrimental impact upon highway safety, movement and access needs.

Other

Gedling Borough Council's *Parking Provision for Residential Developments* – Supplementary Planning Document 2012– sets out the car parking requirements for new residential development.

7.0 Planning Considerations

Principle of the development

- 7.1 The site is considered to be sustainably located within an established residential area. The use of the land for residential purposes would be in keeping with the surrounding area, which is predominantly in residential use.
- 7.2 Whilst the site is relatively large in area, only part of it is developable due to the presence of the steep bank to the north. Notwithstanding this, the proposed density of development, at approximately 42 dwellings per hectare, still meets with the requirements of Local Planning Document Policy LPD 33.
- 7.3 The principle of residential development is therefore considered to meet with the objectives of the National Planning Policy Framework, Aligned Core Strategy Policy 8 and Local Planning Document Policy LPD 33, subject to a detailed consideration of the following matters.

Impact upon the streetscene

- 7.4 The site sits behind the existing bungalows on Briarbank Avenue and it is within that context that the proposed development would be viewed. The scale of the proposed development would mean that it would be higher than these existing properties, although it would be of scale more in keeping with the two storey properties which front onto Rowan Walk and Honeywood Drive.
- 7.5 Whilst the proposed development would be higher than most of the dwellings immediately adjacent to the site, on balance it is considered that the visual harm caused by this two storey development would not be so severe to justify the refusal of planning permission, in particular because the surrounding area is also characterised by two storey development and therefore the scale of the development would be commensurate with this. Furthermore, the land rises to the rear of the site which is considered to be an additional mitigating factor.
- 7.6 For these reasons, the proposal is considered to meet with the objectives of the National Planning Policy Framework, Aligned Core Strategy 10 and Local Planning Document Policies 35 and 40.

Impact upon residential amenity

- 7.7 The site shares boundaries with existing residential dwellings on three sides. It is considered that the proposed buildings would be located an adequate distance from the dwellings to the east and west (a minimum of approximately 9 metres to the east although the nearest property to this side is angled away thus increasing the distance along most of the elevation and a minimum of approximately 13 metres to the west) to ensure that there would not be an undue impact from massing or through loss of light/overshadowing. There are no windows proposed in the side elevations of these buildings.
- 7.8 With respect to the properties to the south, an approximate distance of at least 11 metres would be maintained between the windows on the front of the proposed development and the rear garden areas and an approximate distance of at least 27 metres would be maintained between facing windows on the existing and proposed dwellings. It is considered that these distances are adequate to ensure that unacceptable overlooking would not arise between the dwellings. Furthermore, it is considered that these distances are adequate to ensure that there would not be an adverse impact arising from the massing of the proposed building or through loss of light/overshadowing.
- 7.9 It is considered that the proposed flats would provide adequate internal space for future occupiers. Further clarification was requested from the Agent during the course of planning application 2018/0365 as to the relationship that the windows on the rear elevation of the development would have with the steep vegetated bank on the northern part of the site. The information provided was not particularly conclusive in this regard however, given that all of the living spaces are positioned to the front of the proposed buildings, it is considered that an adequate level of amenity would be provided for the occupants of the dwellings.

- 7.10 The impact upon residential amenity is therefore considered to meet with the objectives of the National Planning Policy Framework, Aligned Core Strategy Policy 10 and Local Planning Document Policies LPD 32, 35 and 40

Highways matters

- 7.11 The application proposes that the site would be accessed via an existing hard surfaced access drive. 16 parking spaces would be provided within the car parking area. The Highway Authority does not object to the proposal subject to the imposing of conditions relating to the surfacing of the parking area and to the bin collection area being provided, which are considered to be reasonable and necessary.
- 7.12 Adequate car parking is proposed to meet with the requirements of the Borough Council's Supplementary Planning Document, which on an unallocated basis would require 0.8 space per flat. It is therefore not considered that the proposal would be likely to be harmful to highway safety or to the surrounding highway network in general.
- 7.13 The proposal is therefore considered to meet with the objectives of the National Planning Policy Framework and Local Planning Document Policies LPD 57 and 61.

Other matters

- 7.14 The embankment to the northern part of the site is protected open space as defined by Local Planning Document policy LPD 20. However, the built development proposed would be located on the flat southern part of the site and therefore not within the protected open space. Whilst it may be necessary to carry out works to or to remove trees within the protected open space area, this would not compromise the objectives of the LPD designation. The area of open space in question is not publically accessible and has a steep gradient.
- 7.15 A Local Labour Agreement would be required in order to comply with Policy LPD 48. This can be secured by way of a planning condition.
- 7.16 It is noted that the Council's Scientific Officer has requested that electric vehicle charging points be provided, in the context of Local Planning Document Policy LPD 11. It is not however considered that this proposed would adversely impact upon air quality and therefore it is reasonable that a note to application is added with respect to electric vehicle charging points.
- 7.17 Matters relating to drainage would be covered under separate Building Regulations legislation and no further consideration is considered necessary under the planning process.
- 7.18 Matters relating to vegetation clearance, bat and bird boxes, lighting and contamination can be addressed by planning conditions and/or notes to applicants.
- 7.19 Potential damage to property or to the access road is a private matter and cannot be considered during the determination process.

8 Conclusion

- 8.1 The proposed development would be of height that is acceptable within the context of the surrounding area and would not have an adverse impact upon visual amenity, residential amenity or highway safety. The proposal is therefore considered to meet with the objectives of the National Planning Policy Framework, Aligned Core Strategy Policies, A, 1, 8 and 10 and Local Planning Document Policies 11, 20, 32, 33, 35, 37, 40, 48, 57, 61.

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 plans and details submitted to the Local Planning Authority: application form, site location plan and drawing numbers 217:38:11, 217:38:12 and 217:38:14 all received on 17th September 2018 and drawing number 217:38:13B received on 22nd October 2018. The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.
- 3 No above ground construction works shall commence until samples of the proposed external facing materials to be used in the construction of the development have been submitted to, and approved in writing by, the Local Planning Authority and the development shall only be undertaken in accordance with the materials so approved and shall be retained as such thereafter.
- 4 No building shall be occupied until a detailed scheme for the boundary treatment of the site, including the position, design and materials, and to include all boundaries or divisions within the site, has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before the buildings are first occupied and shall be retained thereafter.
- 5 Prior to the erection of any external lighting there shall be submitted to and approved in writing by the Local Planning Authority details of all such lighting, including levels of illumination and a lux plot of the estimated luminance, to be provided on the approved buildings or elsewhere within the site. Any security lighting/floodlighting to be installed, shall be designed, located and installed so as not to cause a nuisance to users of the highway or adjacent properties. The external lighting shall be provided in accordance with the approved details and shall be retained for the lifetime of the development.
- 6 Prior to the first occupation of the building hereby approved there shall be submitted to and approved by the Local Planning Authority 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 first occupation 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 Local Planning Authority 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.

- 7 Before development is commenced there shall be submitted to and approved in writing by the Borough Council details of a Local Employment Agreement to cover the construction of the development hereby permitted. The Local Employment Agreement shall be implemented in accordance with the approved details.
- 8 No part of the development hereby permitted shall be brought into use until the parking and turning areas are surfaced in a bound material with the parking bays clearly delineated in accordance with drawing number 217:38:13B. The parking, and turning areas shall be maintained in the bound material for the life of the development and shall not be used for any purpose other than the parking, turning and loading and unloading of vehicles.
- 9 No part of the development hereby permitted shall be brought into use until the bin collection area is constructed in the location shown on approved drawing number 217.38.13B.
- 10 No part of the development hereby permitted shall be brought into use until the secure cycle storage as indicated on drawing 217:38:13B has been provided and that area shall not thereafter be used for any purpose other than the parking of cycles.
- 11 Unless otherwise agreed by the Local Planning Authority, development must not commence until the following has been complied with:

Site Characterisation

An assessment of the nature and extent of any potential contamination has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. Moreover, it must include; a survey of the extent, scale and nature of contamination and; an assessment of the potential risks to: human health, property, adjoining land, controlled waters, ecological systems, archaeological sites and ancient monuments.

Submission of Remediation Scheme.

Where required following the site characterisation assessment, a detailed remediation scheme (to bring the site to a condition suitable for the intended use by removing unacceptable risks to critical receptors) shall be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management

procedures. In the event that remediation is required to render the development suitable for use, the agreed remediation scheme shall be implemented in accordance with the approved timetable of works. Prior to occupation of any building(s) a Verification Report (that demonstrates the effectiveness of the remediation carried out) must be submitted and approved in writing by the Local Planning Authority.

- 12 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination development must be halted on that part of the site. An assessment must be undertaken in accordance with the requirements set out in Condition 12 above, and where remediation is necessary a remediation scheme, together with a timetable for its implementation and verification reporting, must be submitted to and approved in writing by the Local Planning Authority.
- 13 No development shall commence on site in connection with the development thereby approved (including demolition works, tree works, fires, soil moving, temporary access construction and / or widening or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement (AMS) in accordance with BS5837:2012Trees in relation to design, demolition and construction - Recommendations has been submitted to and approved in writing by the Local Planning Authority and any protective fencing is erected as required by the AMS. The AMS shall include full details of the following:
 - a) Timing and phasing of Arboricultural works in relation to the approved development.
 - b) Details of a tree protection scheme in accordance with BS5837:2012:which provides for the retention and protection of trees, shrubs and hedges on and adjacent to the site.
 - c) Details of any construction works required within the root protection area of trees, hedges or shrubs on and adjacent to the site, as defined by BS5837:2012.
 - d) Details of the arrangements for the implementation, supervision and monitoring of works required to comply with the arboricultural method statement.
- 14 Prior to commencement of the development a Construction Emission Management Plan (CEMP) for minimising the emission of dust and other emissions to air during the site preparation and construction shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must be prepared with due regard to the guidance set out in the IAQM Guidance on the assessment of dust from demolition and construction and include a site specific dust risk assessment. All works on site shall be undertaken in accordance with the approved CEMP unless otherwise agreed in writing by the Local Planning Authority.
- 15 Prior to the erection of any bin store structure, details shall first be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.

- 16 No above ground construction works shall commence until details of bat and bird boxes to be incorporated within the fabric of the buildings and/or within the site have been submitted to and approved in writing by the Local Planning Authority. The bat and bird boxes shall thereafter be provided prior to the first occupation of the development hereby approved.

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 To ensure a satisfactory standard of external appearance.
- 4 To ensure a satisfactory standard of external appearance and in the interests of residential amenity.
- 5 In the interests of residential amenity.
- 6 In the interests of visual amenity.
- 7 To ensure that the construction of the development provides appropriate employment and training opportunities.
- 8 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking in the area.
- 9 For ease of collection by the refuse team, and located within the 25m pulling distance.
- 10 To promote sustainable transport.
- 11 To ensure that land contamination matters are fully addressed.
- 12 To ensure that land contamination matters are fully addressed.
- 13 To ensure that existing trees are adequately protected.
- 14 To ensure the development is constructed in an appropriate sustainable manner which takes into consideration air quality with in the Borough.
- 15 In the interests of visual and residential amenity.
- 16 In the interests of enhancing ecological provision on the site.

Reasons for Decision

The development would be of height that is acceptable within the context of the surrounding area and would not have an adverse impact upon visual amenity, residential amenity or highway safety. The proposal is therefore considered to meet with the objectives of the National Planning Policy Framework, Aligned Core Strategy Policies, A, 1, 8 and 10 and Local Planning Document Policies 11, 20, 32, 33, 35, 37, 40, 48, 57, 61.

Notes to Applicant

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 PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website or from the Planning Portal: www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

The Borough Council has worked positively and proactively with the applicant in accordance with paragraph 38 of the National Planning Policy Framework (2018). No amendments were considered to be necessary to the proposal as originally submitted.

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 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

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact Daniel Sullivan 01159 773991 for details.

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

When considering carrying out any work to trees it is important to consider the provisions made in the Wildlife and Countryside Act 1981, Conservation (natural habitats) Regulations 1994 and the Countryside Rights of Way Act 2000, which mean it is an offence to intentionally or recklessly kill, injure or take a bat, Intentionally or recklessly damage, destroy or obstruct access to any structure or place used for shelter or protection by a bat, Intentionally or recklessly disturb a bat while it is occupying a structure or place that it uses for shelter or protection, damage, destroy or block access to the resting place of any bat, Intentionally or

recklessly kill, injure or take a wild bird, Intentionally or recklessly take, damage or destroy the nest of any wild bird when it is in use or being built, Intentionally or recklessly take, damage or destroy the egg of any wild bird. These points outline the main parts of the above legislation. If you are unsure about these issues, it would be advisable to contact an ecological consultant before undertaking any tree work operations.

Consideration should be given to providing suitable electrical sockets to allow for the charging of electric vehicles on the site.