



Planning Report for 2021/0542



Report to Planning Committee

Application Number:	2021/0542
Location:	19 Ashe Close Arnold Nottinghamshire
Proposal:	Erect detached dwelling.
Applicant:	Mr and Mrs Farnsworth
Agent:	Apex Design
Case Officer:	Bev Pearson

This application site is within the ownership of the Borough Council and therefore, in accordance with the Council's Constitution, this application has been referred to Planning Committee.

1.0 Site Description

- 1.1 This application relates to an area of public open space within a residential area of Arnold located to the rear of no.s 59-65 Darlton Drive to the south, the rear of 77- 85 Langford Road to the north and to the west of no. 19 Ashe Close.
- 1.2 There is a pedestrian footpath immediately adjoining the site boundary from Ashe Close to a footpath (which is adopted and is a definitive right of way – Arnold Footpath 55) linking Darlton Drive with Langford Road.
- 1.3 The site comprises an area of grass with trees and vegetation along the boundary with the properties on Langford Road. Levels affect the site with the land rising up from Ashe Close and towards the properties on Darlton Drive.
- 1.4 Two storey semi-detached properties exist at a higher level on Darlton Drive and bungalows at a lower level on Langford Road. No. 19 Ashe Close is a semi-detached chalet style two storey dwelling with a rear and side garden and which has a detached garage to the side/rear.

2.0 Relevant Planning History

- 2.1 2020/0698 – full planning permission was sought in July 2020 for the erection of a single split level dwelling with access from Ashe Close – this application was subsequently withdrawn on the 2nd December 2020.

- 2.2 2009/0418 – Conditional planning permission was granted in July 2009 for the erection of 2 no. dwellings – one single/two storey and one two storey. This was not implemented.
- 2.3 2009/0018 - Planning permission was refused in March 2009 for the erection of two dwellings on the grounds that the proposed dwellings would have an undue overbearing and overlooking impact by virtue of their height and close proximity to neighbouring properties on Darlton Drive.
- 2.4 2005/0631 - Outline planning permission was granted in 2005 for a residential development on the site. All matters except means of access were reserved for later approval. Condition 19 of this permission stated that the proposed development shall only be single storey in height. This was not implemented.

3.0 Proposed Development

- 3.1 This application is the resubmission of the scheme withdrawn in December 2020. Full planning permission is again sought for the erection of a single split level 4 no. bedroom L shaped dwelling (single storey to the rear elevation and two/three storey to the front taking account of the changes in land levels) located towards the eastern section of the site.
- 3.2 This would have maximum dimensions of circa 13m depth and 8m width and would have maximum eaves height of 4.9m and ridge height of 8.3m.
- 3.3 A double integral garage is proposed to the lower ground floor front elevation whilst a dormer window is proposed to the rear roof a slope.
- 3.3 Vehicular access would be via Ashe Close taken from a section of what is currently part of the curtilage of no.19 Ashe Close and would be created by virtue of the relocation of the detached garage currently serving this property.

4.0 Consultations

- 4.1 Neighbouring properties were consulted site notice was posted on 20th May 2021.

Three representations have been received which are summarised as follows:-.

- The applicant does not own the land
- Surface water run-off drainage provision
- Proximity to and potential encroachment onto neighbouring boundaries
- Noise and dust pollution during construction phase – will there be restricted working hours
- Impact of digging of foundations on neighbouring properties

- There is no access for construction vehicles
- Impact on amenity by virtue of activity and overlooking
- Neighbouring properties were purchased whilst being unaware of planning applications
- Will the applicant live in the property or sell the site
- Impact on wildlife
- Impact on the footpath
- Devaluation of neighbouring properties

4.2 Nottinghamshire County Council – The location of the proposed dwelling is at the end of Ashe Close, to utilise the existing access. Given that the driveway is only single width and not double width to allow 2no cars to pass side by side, the Highways Authority deemed that there will be no conflict with a car waiting on the existing carriageway due to the cul de sac environment. As such the Highways Authority would have no concerns to the proposal.

4.3 Nottinghamshire County Council Rights of Way - Confirm that Arnold Footpath 55 runs adjacent to the application site and the applicant should be made aware of the legal line. No objections are raised. However, applicant should be made aware of their obligations including matters such as keeping the footpath open and free from obstructions and the need for the agreement from the Rights of Way team if a temporary closure is required.

4.4 Gedling Borough Scientific Officer – Request conditions requiring the submission and written approval of a Construction Emission Management Plan and the provision of electric vehicle charging point.

4.5 Gedling Borough Council Parks and Street Care -The land is subject to high levels of antisocial behaviour and of low amenity value to the Council and is surplus to the Council's requirements. The footpath is outside of the planning application red line and also the Council's proposed land sale and should be referred to Nottinghamshire County Council. Suitable alternative open space is available within easy walking distance (Killisick Park, a shared play facility off Coppice Road and a local play area off Newcombe Drive).

5.0 Assessment of Planning Considerations

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that: 'if regard is 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'.

6.0 Development Plan Policies

6.1 The most relevant national planning policy guidance in the determination of this application is contained within the National Planning Policy Framework (NPPF) (2019) is relevant and the National Planning practice Guidance (NPPG). The NPPF sets out the national objectives for delivering sustainable development. Sections 2 (Achieving Sustainable Development), 5 (Delivering a sufficient supply of homes), 8 (Promoting healthy and safe communities), 9 (Promoting sustainable transport), 11 (Making effective use of land), 12 (Achieving well-designed places) are particularly relevant in this instance.

6.2 The Gedling Borough Council Aligned Core Strategy (ACS) (September 2014) is part of the development plan for the area. The following policies are relevant in considering this application:

- Policy A (Presumption in Favour of Sustainable Development) sets out that a positive approach will be taken when considering development proposals.
- Policy 2 (The Spatial Strategy) identifies the settlement hierarchy to accommodate growth and the distribution of new homes.
- Policy 8 – (Housing Size, Mix and Density) states that 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.
- Policy 10 (Design and Enhancing Local Identity) sets out that “development will be assessed in terms of its ‘massing, scale and proportion; materials, architectural style and detailing and impact on the amenity of nearby residents and occupiers’.”
- Policy 16 (Green Infrastructure, Parks and Open Space) sets out that open spaces should be protected from development unless the open space is shown to be under used and undervalued.

6.3 The Gedling Borough Local Planning Document (LPD) (July 2018) is part of the development plan for the area. The following policies are relevant in considering this application:

- LPD 4 (Surface Water Management) requires that all development proposals should wherever possible include measures to pro-actively manage surface water
- LPD 20 (Protection of Open Space) sets out that permission will not be granted for development on land that is or was last used as open space and identifies exceptions to this policy. Of relevance to this proposal is where the open space is shown to be surplus to requirements or where there is an adequate provision of alternative open spaces.
- LPD 32 (Amenity) states “Planning permission will be granted for development proposals that do not have a significant adverse impact on

the amenity of nearby residents or occupiers, taking into account potential mitigation measures.”

- LPD 33 (Residential Density) states inter alia that:- a) Planning permission will not be granted for proposals for residential development of less than 30 dwellings per hectare.
- LPD 35 (Safe Accessible and Inclusive Development) sets out that the massing, scale and proportion of development should be appropriate to the immediate context, site constraints, character of adjoining streets and spaces and the sites the location within the townscape.
- LPD 37 (Housing Type, Size and Tenure) provides that permission will be granted for residential development that provides for an appropriate mix of housing, subject to housing need and demographic context within the local area.
- LPD 40 (Housing Developments on Unallocated Sites). In relation to new builds this sets out that permission will be granted for residential development on unallocated sites that are not within the Green Belt provided they are of a high standard of design and do not affect the area by reason of scale, bulk, form or layout, would not result in the loss of open space, would not impact on nearby amenity and that appropriate provision for parking is made.
- LPD 57 (Parking Standards) provides that permission for residential development will be granted where the development proposal meets the requirement for parking provision set out in Appendix D, or otherwise agreed by the local planning authority.
- LPD 58 – Cycle Routes, Recreational Routes and Public Rights of Way sets out that new development should not prejudice existing public rights of way.
- LPD 61 (Highway Safety) sets out that permission will be granted for development proposals which do not have a detrimental effect on highway safety, patterns of movement and the access needs of all people.
- LPD 63 (Housing Distribution) - Supports the principle of housing development in the urban area in line with ACS Policy 2.

6.4 Supplementary Planning Documents/Guidance

- Parking Provision for Residential Developments Supplementary Planning Document 2012.

7.0 Planning Considerations

Principle of the development.

- 7.1 The application site is currently public open space which suffers from anti-social behaviour and is considered by the Council's Parks and Street Care officers to have a low amenity value and to be surplus to the Council's requirements. Alternative open spaces/play areas have been identified which are within walking distance of the application site which would satisfactorily mitigate its loss. The principle of the proposal in terms of loss of public open space is therefore considered acceptable in this particular instance and in accordance with Policy 16 of the ACS and Policy LPD 20.
- 7.2 I am mindful of the previous permissions for residential development on the site in 2009. However, although site circumstances may not have changed significantly since that time, there has been an updated NPPF, the Aligned Core Strategy adopted in 2014 and Local Plan Document adopted in 2018. Notwithstanding the planning history of the site, the proposal has to be assessed on its own merits and against the current national and local planning policies.
- 7.3 Nevertheless, the application site does fall within a sustainable residential urban area of Arnold offering a 4 bed family dwelling. Whilst a residential density figure of 30 dwellings per hectare is noted in Policy LPD 33, the sub section of this policy recognises that there will be circumstances whereby this would not be appropriate for example where characteristics are of a localised nature. Given the constraints of the site I am of the view that this would be the case in this particular site. I am therefore satisfied that the principle of the proposal of residential development would accord with Policy A, Policy 2 and Policy 8 of the ACS and Policies LPD 33, LPD 37 and LPD 63 of the LPD and may be acceptable subject to the consideration of the following material planning considerations:-

Impact on the character and appearance of the area

- 7.4 The surrounding streets (Darlton Drive, Ashe Close and Langford Road) comprise a linear form of development of predominantly semi-detached and some detached dwellings directly fronting the highway presenting a well-established building line, an urban form that is an integral and predominant part of the character and appearance of the surrounding area with dwellings set within reasonable sized plots, with no back land development similar to that proposed with this application.
- 7.5 The proposed dwelling would be sited on an area of public open space to the rear of properties on Darlton Drive and Langford Road and some 31m from the highway from which it gains access.
- 7.6 I note the previous permission for 2 dwellings on the site. However this was 11 years ago and there have been changes to both local and national planning policy since that time with a much greater emphasis on design as particularly noted in Para 127 of the NPPF, Policy 10 of the ACS, Policy LPD 32, Policy LPD 35 and Policy LPD 40 and there is now a greater policy emphasis on design including scale and layout. I am of the view that the proposal now before the Council would result in a form of backland development that would appear entirely incongruous, out of character and harmful to the setting of the site and the prevailing urban pattern of development within its vicinity together with its

wider setting as detailed above and would be contrary to the policy emphasis on good design and layout.

- 7.7 It is accepted that the proposal, should permission be granted, would make a contribution to housing supply within the Borough. However this would be extremely modest and would not outweigh the above concerns.
- 7.8 It is therefore considered that the proposal would therefore fail to accord with sections a), b) and c) of paragraph 127 Section 12 of the NPPF, Policy 10 of the ACS, and Paragraph g. of Policy LPD 32, paragraph b. of LPD 35 and paragraph a) 1. of policy LPD 40 of the LPD.

Impact on the neighbouring amenity.

- 7.9 With regards to impact on properties on Langford Road there is circa 22m separation between the proposed and existing dwellings and being mindful of this together with the significant screening provided by trees along this boundary which are not included within the application site it is not considered that the development would have such an impact on the amenity of the occupiers of these neighbouring dwellings to justify refusal on these ground.
- 7.10 Similarly given the scale of the dwelling and taking account of the increase in land levels it is not considered that the proposal would unduly impact on the amenity of the occupiers of properties on Darlton Drive.
- 7.11 I note that there is a minimum of between 3m and 4.1m separation between the proposed dwelling and the shared boundary with no. 19 Ashe Close. There are no first floor windows to the side elevation of the proposed dwelling facing this adjoining plot and given separation distances between the existing dwelling on this plot and the proposed dwelling of some 17m I am of the view that the development would not result in any undue overbearing or overshadowing impact.
- 7.12 The proposed dwelling would have an appropriate level of private amenity space.
- 7.13 I note the comments regarding the potential noise and dust during the construction phase of the development and the level of activity resulting from a 4 bedroom property. I note that the Council's Scientific officer has requested a condition be attached should planning permission be forthcoming requiring the submission and approval of a Construction Emissions Management Plan Construction Emissions Management Plan to ensure that correct practices are undertaken during construction. It is also not considered that given the urban setting of the site the proposal would result in any significant noise or activity levels from everyday living. Should noise nuisance occur from any anti-social activity this would be a matter to be dealt with under existing Environmental Health legislation.
- 7.14 The proposal therefore accords with paragraph 127 sub section f) of Section 12 of the NPPF (2019), and paragraphs a.-f. and h. of Policy LPD 32 and paragraph a) 3 of LPD 40 of LPD (2018).

Highway Matters

- 7.15 I am of the view that the proposal would make adequate off street parking space provision to serve the new dwelling in line the with Parking Provision for Residential Developments Supplementary Planning Document 2012 whilst retaining off street parking for no. 19 Ashe Close. The Highway Authority has raised no objections subject to the recommended conditions. It is therefore considered that the proposal would raise no parking or highway safety issues and would be in accordance with Section 9 of the NPPF, Policies LPD 57 and LPD 61.

Rights of Way Matters

- 7.16 The application site does not include the Arnold Footpath 55 which runs immediately adjacent to the site but which would remain unaffected by the development post construction. I note that the Nottinghamshire County Council Rights of Way team have raised no objection subject to the applicant being made aware of a number of advisory notes which is considered reasonable. The proposal therefore accords with Policy LPD 58

Other Matters

- 7.17 In terms of impact on wildlife given the urban setting of the site it is not considered that it would have any significantly important ecological value. An ecology survey has not been requested given the level of officer concern with the impact of the proposal on the character of the area and neighbouring residential amenity. Similarly I have not pursued a tree survey.
- 7.18 The site location and site layout plan submitted with the application do not show the development encroaching onto neighbouring boundaries. Boundary issues are not a material planning consideration but a private legal matter between the interested parties.
- 7.19 Regarding concerns raised in relation to devaluation of neighbouring properties, this is not a material planning consideration. Similarly the digging of the foundations of the proposed dwelling would be required to accord with current Building Regulation legislation.
- 7.20 With regards to the purchasing of neighbouring properties without purchasers being aware of the application, site notices were posted at each point of the public access to the site and adjoining neighbours were notified in writing of the proposal. This would accord with the requirements for the publicity of planning applications set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 7.21 The agent and applicant are not the owners of the land but have served the requisite notice on the landowner.
- 7.22 Concerns raised with regards surface water run-off are noted. If permission were to be granted this could be dealt with by condition to ensure that the proposal would comply with Policy LPD 4 of the LPD in relation to surface water management.
- 7.23 In relation to who occupies the property this is not a material planning consideration.

7.24 The agent has verbally confirmed that access for construction traffic would be via the access to the site from Ashe Close.

8.0 Conclusion

8.1 Although this is the resubmission of a scheme approved in 2009 and that site circumstances do not appear to have significantly changed since that time both National and Local Planning Policy have been introduced or updated – the National Planning Policy Framework has been introduced and most recently updated in 2019. Moreover local policies have been revised in the form of the Aligned Core Strategy adopted in 2014 and the Local Planning Document adopted in 2018. It is therefore these up to date policies against which the current proposal has to be fully assessed.

8.2 Taking the above into account it is considered that, the principle of residential development may be considered acceptable in this area and the loss of public open space adequately mitigated with alternative nearby provision in line with Policies A, 2, 8 and 16 ACS 16 of the ACS and Policies LPD 37 and 63 of the LPD. The proposal also raises no surface water management, amenity, parking or highway safety issues in accordance with policy LPD4, paragraphs a.-f. and h. of Policy LPD 32 and paragraph a) 3 of LPD 40 of LPD.

8.3 Notwithstanding this however the proposed scheme would result in a form of backland development that would appear incongruous within the established layout and urban form of the surrounding area, which is predominantly characterised by properties directly facing the highway with no tandem or back land development present. The proposal would therefore fail to accord with sections a), b) and c) of paragraph 127 Section 12 of the NPPF, Policy 10 of the ACS and paragraph g. of Policy LPD 32, paragraph b. of LPD 35 and paragraph a) 1 of policy LPD 40 of the LPD. This would have significant weight in the planning balance which would not be outweighed by the conclusions reached in paragraph 8.2 above.

Recommendation: Refuse Planning Permission.

Reasons

- 1 In the opinion of the Local Planning Authority the proposed dwelling would represent a form of backland development that would appear alien and entirely incongruous with the established layout and urban form of the area, which is predominantly characterised by properties directly facing the highway with no clear tandem or back land development present. The proposal would therefore fail to accord with Sections Section 12 of the NPPF, Policy 10 of the ACS and paragraph g. of Policy LPD 32, paragraph b. of LPD 35 and paragraph a) 1 of policy LPD 40 of the LPD.

Notes to Applicant

You are advised that as of 16th October 2015, the Gedling Borough Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above

application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website.

Planning Statement - The Borough Council has worked positively and proactively with the applicant in accordance with paragraph 38 of the National Planning Policy Framework (2019). There are fundamental policy objections to the proposal and it is considered that these cannot be overcome. In order to avoid the applicant incurring further abortive costs, consideration has not been delayed by discussions, which cannot resolve the reasons for refusal, to facilitate a decision in a timely manner.