

Application Number: 2014/0856
Location: 21 Ethel Avenue, Mapperley, Nottinghamshire, NG3 6HD.



NOTE:
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Report to Planning Committee

Application Number:	2014/0856
Location:	21 Ethel Avenue, Mapperley, Nottinghamshire, NG3 6HD.
Proposal:	Proposed demolition of 21 Ethel Avenue and erection of 3 No 4 Bedroom Detached dwellings.
Applicant:	Mr Lee Freeley
Agent:	Mr Richard Price
Case Officer:	Fiona Campbell

The application is being reported to the Planning Committee as the Borough Council own a strip of land running along the side of 19a Kenrick Road which forms part of an access to the site.

Site Description

The application site relates to 21 Ethel Avenue, a bungalow with substantial garden land located within Mapperley. The rectangular site is approximately 0.16 hectares in area and slopes down from south to north. The property is situated at the junction of Ethel Avenue and Emmanuel Avenue, both private narrow roads. There is a further access track leading from the site to Kenrick Road between no.'s 19a and 19c Kenrick Road. The red edged plan submitted with the application incorporates Ethel Avenue and Emmanuel Avenue, and also the access track leading from Kenrick Road to Ethel Avenue.

The site has been cleared of all vegetation with the exception of a yew and larch tree at the front of the site and close boarded fencing 1.8 metres in height has been erected to the side and rear boundaries.

The site is located within a residential area and adjoined by bungalows and two storey dwellings. Properties to the east on Kenrick Road and to the north on Hallam Road are on lower levels to the site.

Relevant Planning History

In March 2011 a Tree Preservation Order (Order No. 101) was made on the three trees, a Larch (T1), a Yew (T2) and a Maple (T3) located to the front of the site. Given their position and prominence, it was considered that the trees be protected to ensure they are not lost as a consequence of any future development.

In July 2013 the Maple tree was inspected by an Officer from Nottinghamshire County Council Arboricultural team and deemed to be dead, dying or dangerous and felled.

In May 2014 Planning Permission (App. No. 2014/0390) was refused for the demolition of the property and erection of 4 no. 4 bedroom detached dwellings for the following reasons:

1. In the opinion of the County Council as Highway Authority and the Borough Council, as Local Planning Authority, the access roads leading to the site are substandard in that they are of an inadequate width to allow two vehicles to pass and to provide satisfactory access for larger vehicles. Emmanuel Road also has a tortuous vertical alignment which makes vehicular movement in a slow and controlled manner very difficult. The increased use of such roads would result in an increase in the likelihood of unacceptable danger to the users of the highway. The proposed development is therefore contrary to Policies ENV1 and H13 of the Gedling Borough Replacement Local Plan (Certain Saved Policies) 2008.
2. In the opinion of the County Council as Highway Authority and the Borough Council, as Local Planning Authority, the access roads leading to the site are substandard in that they have a very tight right angled bend at the point where they join which restricts forward visibility. The increased use of such roads would result in an increase in the likelihood of unacceptable danger to the users of the highway. The proposed development is therefore contrary to Policies ENV1 and H13 of the Gedling Borough Replacement Local Plan (Certain Saved Policies) 2008.
3. In the opinion of the County Council as Highway Authority and the Borough Council, as Local Planning Authority, the proposed development would result in an increased number of vehicles using the sub-standard access roads which would be likely to adversely affect the safe unencumbered movement of pedestrians and as a consequence would increase the likelihood of pedestrian/vehicle conflict resulting in increased danger to users of the highway. The proposed development is therefore contrary to Policies ENV1 and H13 of the Gedling Borough Replacement Local Plan (Certain Saved Policies) 2008.
4. In the opinion of the Borough Council the proposed development would result in the unacceptable loss of trees that make an important contribution to the visual amenity of the area. The proposed development is therefore contrary to Policy ENV1(a) of the Gedling Borough Replacement Local Plan (Certain Saved Policies) 2008.
5. In the opinion of the Borough Council the proposed development would result in the unacceptable loss of residential amenity at 5 Ethel Avenue, due to the proximity of the dwelling proposed at plot 1 which would affect a first floor window positioned in the gable end of 5 Ethel Avenue and the overbearing impact that the projection of the dwelling on plot 1 would cause to the occupants of 5 Ethel Avenue. The proposed development would also lead to

unacceptable overlooking from plot 4 towards the rear amenity area of plot 1. The impact on residential amenity that would be caused as result of the proposal would not accord with paragraph 9 of the National Planning Policy Framework which requires development to improve the conditions within which people live.

In July 2014 Tree Preservation Order Consent (App. No. 2014/0586TPO) was refused to raise the crown and cut back overhanging vegetation over adjacent unadopted roadway of the Yew tree and to fell the Larch tree for the following reason:

1. The trees subject to this application are in good health and vigour. No supporting evidence has been submitted to warrant the felling of the Larch tree and the Yew tree is considered not to require significant works. Therefore, in the opinion of the Borough Council the proposed works are considered to be unnecessary in terms of good arboricultural practice.

A further application for identical works to the trees as above was submitted in November 2014 (App. No. 2014/1215TPO). This was refused for the same reason.

Proposed Development

Full Planning Permission is sought for the demolition of 21 Ethel Avenue and the erection of 3 number 4 bedroom detached dwellings.

The total plot measures a maximum of 45m in width to the frontage on Ethel Avenue and 42m in depth. An area of land, adjacent to No. 5 Ethel Avenue, and measuring some 9m in width x 23m in depth has been excluded from the application. Following discussions with this office a revised plan has been submitted (ETH-1001 Rev E) amending the red line to include all of plot 3 and exclude a strip of land to the east side of the plot to the rear of No.'s 19a to 31 Kenrick Road. The proposed detached garage has been moved some 1.8m to the west so that it falls within the site boundary. The revised plan also shows a potential pedestrian access some 2 metres in width from the driveway serving Plot 1 to Ethel Avenue. Neighbours and Statutory Consultees were reconsulted with these plans. The private accesses leading to the adopted highway, along Ethel Avenue and Emmanuel Avenue and between numbers 19a and 19c Kenrick Road, have been included in the red line site plan.

Plot 1 is a detached two storey dwelling with detached double garage. Vehicle access to the dwelling is taken off Kenrick Road, with pedestrian access only from Ethel Avenue. Maximum dimensions of the dwelling are 13.8m in width x 10.3m depth x 5.4m to eaves and having hipped roofs over (maximum ridge height 8.5m above ground level). A detached garage is located to the rear of the property on plot 1 and measures 5.8m in width x 5.8m in depth x 2.4m to eaves with a hipped roof over (maximum ridge height 4.2m above ground level).

Plot 2 is a detached two storey dwelling with integral double garage. Maximum dimensions of the dwelling are 12m in width x 10.8m depth x 5.4m to eaves with hipped and gabled roofs over (maximum ridge height 8.8m above ground level).

Plot 3 is a detached 'L' shaped two storey dwelling with integral double garage occupying the northern end of the site. Maximum dimensions of the dwelling are 11.5m in width x 17.7m depth x 5.4m to eaves with hipped and gabled roofs over (maximum ridge height 8.8m above ground level).

Both plots 2 and 3 have pedestrian and vehicle access off Ethel Avenue, in close proximity to where the road meets Emmanuel Avenue.

A Transport Statement, Tree Survey and Streetscene view were submitted with the application.

Notice has been served on all occupiers of premises along the proposed access routes up to the public highway as landowners and on Gedling Borough Council as a landowner. A Press Notice was also placed in the Nottingham Evening Post on the 24th October 2014 and Certificate D completed.

Following further discussions with this office the Agent also submitted revised plans ET-1001 Rev F and G indicated the root protection zones of the Yew and Larch on the plans and proposing a replacement Maple tree.

Consultations

Nottinghamshire County Council (Highway Authority) –

The following comments are made on the revised proposal which has been submitted. The drawing on which the comments are made is entitled 'Proposed Site Plan', drawing no. ETH-1001, revision E.

It has come to the attention of the Highway Authority that the access that runs between 19a and 19c Kenrick Road has pedestrian access rights for the general public. This is in addition to those which would be accessing the dwelling annotated as plot 1 on the submitted plan.

The Highway Authority has concerns with regards to the substandard width of the access to allow safe movement of pedestrians. The proposed development would result in vehicles using the narrow access, and that this would adversely affect the safe unencumbered movement of pedestrians using the access.

Taking into account the above, and in light of the new information, the Highway Authority recommends that vehicle access from Kenrick Road to serve plot 1 is removed from the scheme. Also, the applicant has previously been made aware that the Highway Authority has recommended that no more than 2 dwellings should be provided with direct access to Ethel Avenue and Emmanuel Avenue so as not to have a detrimental impact on the roads and associated junctions onto the adopted highway. The Highway Authority therefore recommends that the number of dwellings

on the site should be reduced to two.

If no alterations are made to the currently submitted scheme, then the Highway Authority objects to the proposal for the following reason:

- The proposed development would result in vehicles using a sub-standard access to Kenrick Road which would adversely affect the safe unencumbered movement of pedestrians and as a consequence would result in pedestrian/vehicle conflict to the detriment of pedestrian safety.

Nottinghamshire County Council (Forestry Manager) – The revised plans show a safer option of the retention of the protected trees. Full and accurate details of the treatment of the land within the root protection zones is needed to ensure that inadvertent landscape related damage does not occur. Suggest that the area including the root protection zones of the trees is made level with root collars of the protected trees. Screened top soil should be imported to fill in any undulations/voids to make the area more visually acceptable. No machinery or excavation should be utilised as part of this operation.

Nottinghamshire County Council (Rights of Way) – The County Council is considering a claim for a public bridleway between Kenrick Road and the Ethel Avenue/ Emmanuel Avenue junction. The proposed sharing of access with vehicles going to and from Plot 1 is unacceptable on safety and amenity grounds. The provision of a metalled access would also destroy the character of what is currently best described as a 'green lane' and therefore adversely affect public enjoyment of this route.

Nottinghamshire Wildlife Trust – From the available documents it is not possible to determine the age and structure of the building proposed to be demolished to determine if the building is suitable for roosting bats. We would advise as a precautionary measure that a scoping survey for bat roost potential is undertaken by a competent ecologist on all relevant structures on site, with further surveys to be conducted at the correct time of year if required. Also advise that nesting birds should be considered.

Severn Trent – No objection.

Ramblers Association – Object, there is a right of way across the development and one of the properties to be developed proposes to use this right of way as an access path. Ask that any proposed development on the site protects the right of way path.

Local residents have been notified and the application has been advertised on site – 27 responses objecting to the proposal, and 1 in support, have been received as a result, in summary:

- Impact on Public Right of Way.
- Public Right of way is currently blocked.
- A petition signed by more than 140 local residents in support of the preservation of the path has been submitted to Nottinghamshire County Council.
- It is illegal to drive on a Public Bridleway.

- Ownership issues.
- Highway and pedestrian safety.
- Impact on highway safety and issues relating to the narrowness and steepness of the access road.
- Increase in traffic through the site.
- Refuse lorry/emergency vehicle access.
- Loss of trees and wildlife.
- Impact on protected trees.
- Question future development.
- Suggest fewer dwellings may be acceptable.
- Question accuracy of transport data.
- Impact on the visual and residential amenity of the area
- Over intensive development.
- Overbearing impacts.
- Overlooking impacts.
- Overshadowing impacts.
- Loss of privacy.
- Trees already have been removed.
- Flood risk and drainage issues.
- Increased noise and carbon pollution.
- Damage during construction.

- Development will be a benefit to local community and economy.
- Add value to the local area.
- Remove any uncertainty over future development.

Planning Considerations

The main planning considerations in the determination of this application are whether the proposed development is acceptable in this location having regard to residential amenity, the character of the area, highway safety and the impact on protected trees.

At the national level the most relevant parts of the National Planning Policy Framework (NPPF) in relation to the determination of this application are:

- Section 6. Delivering a wide choice of high quality homes (paragraphs 47 – 55); and
- Section 7. Requiring good design (paragraphs 56 – 68).

At local level, Gedling Borough Council at its meeting on 10th September 2014 approved the Aligned Core Strategy (GBACS) and this now forms part of the Development Plan along with certain saved policies contained within the Gedling Borough Council Replacement Local Plan referred to in Appendix E of the GBACS. The GBACS is subject to a legal challenge under section 113 of the Planning and Compulsory Purchase Act 2004 to quash certain parts. The challenge to the GBACS is a material consideration and must be taken account of. The decision maker should decide what weight is to be given to the GBACS. It is considered that the following policies are relevant:

- ACS Policy 10 - Design and Enhancing Local Identity.

Appendix E of the ACS refers to the Saved Policies from Adopted Local Plan. The following policies contained within the Gedling Borough Council Replacement Local Plan (Certain Policies Saved) 2014 are relevant: -

- RLP Policy ENV1 (Development Criteria);
- RLP Policy H7 (Residential Development on Unidentified Sites Within the Urban area and Defined Village Envelopes); and
- RLP Policy T10 (Highway Design and Parking Guides).

The Government attaches great importance to the design of the built environment. Section 7 of NPPF states inter alia that good design is a key aspect of sustainable development and that it should contribute positively to making places better for people. Developments should function well and add to the overall quality of the area, respond to local character and history, reflecting the identity of local surroundings and materials and be visually attractive as a result of good architecture and appropriate landscaping.

Policy 10 – 1 of the ACS states inter-alia that development should be designed to:

- a) make a positive contribution to the public realm and the sense of place;
- b) create attractive, safe, inclusive and healthy environment;
- c) reinforce valued local characteristics;
- d) be adaptable to meet changing needs of occupiers and the effects of climate change; and
- e) reflect the need to reduce the dominance of motor vehicles.

Policy 10 – 2 of the ACS sets out the criteria that development will be assessed including: - plot sizes, orientation, positioning, massing, scale, and proportion. Criterion f) of the ACS refers to the impact on the amenity of nearby residents.

Policy ENV1 of the Replacement Local Plan is relevant in this instance. This states that planning permission will be granted for development provided it is in accordance with other Local Plan policies and that proposals are, amongst other things, of a high standard of design which have regard to the appearance of the area and do not adversely affect the area by reason of their scale, bulk, form, layout or materials. Development proposals should include adequate provisions for the safe and convenient access and circulation of pedestrians and vehicles and incorporate crime prevention measures in the design and layout.

In respect to car parking, regards should be had to the Borough Council's Supplementary Planning Document 'Parking Provision for Residential Developments' (May 2012).

Impact on the Character and Appearance of the Area

Given the location of the site at the head of Emmanuel Avenue and its junction with Ethel Avenue, I consider the layout of the development would not appear out of character or adversely affect the appearance of the area. There is a mix of property styles in the area and therefore I do not consider that the proposed development would be out of keeping with the area. If the development were to go ahead, site

levels on the site would be altered, a condition could be attached requiring the submission of proposed site levels prior to development being carried out.

Impact on Residential Amenity

As a result of the form of existing development in the area and the distances between them I do not consider that there would be any adverse loss of amenity to the nearest residential properties on Ethel Avenue, Emmanuel Avenue, Kenrick Road or Hallam Road in terms of undue overlooking, overshadowing or overbearing impacts. To safeguard amenity a condition could be attached restricting any further windows within the proposal.

Whilst there is likely to be an increased amount of traffic activity, both during the construction period and afterwards, in relation to that generated by the site at the present time, I am satisfied that the proposed development would not have any significant adverse impact on nearby properties due to the level of activities on the site or the level of traffic generated.

Impact on protected trees and landscaping

I note that the revised illustrative layout demonstrates the plotting of the trees and their root protection zones within the site. The nearest proposed dwelling is some 13 metres from the base of the trees, the new access road as now proposed will not encroach on the root protection zones of the trees. I am mindful that traffic using the existing road already impacts on the root protection zones. It will therefore be necessary to ensure that the existing trees are adequately safeguarded. I consider that a condition could be attached to any permission detailing a method statement to include precise details of construction works within the root protection areas of the trees, including detailing any pruning and protection works required to facilitate access and construction. Approval of levels across the site could be required by condition too.

I note additional tree planting is proposed to mitigate for the loss of existing trees and a landscaping condition could be attached to any permission.

An area of land to the east side of the site has been excluded from the site and is shown to be fenced off with 1.8m high fencing. If left vacant I consider that this would have a detrimental visual impact on the area, however a condition could be attached to any permission requiring precise details of the landscaping and means of enclosure of this area if approval were to be given.

Having regard to the above considerations I am of the opinion that the development will have an acceptable impact on the protected trees and the visually amenity of the area.

Impact on Highway Safety and Rights of Way

I note that Highway Authority objects to the application as the proposed development would result in vehicles from Plot 1 using the narrow access to Kenrick Road and due to the substandard width of the access this would adversely affect the safe unencumbered movement of pedestrians and as a consequence would result in

pedestrian/vehicle conflict to the detriment of pedestrian safety.

I am also mindful that the Highway Authority has recommended that no more than 2 dwellings should be provided with direct access to Ethel Avenue and Emmanuel Avenue so as not to have a detrimental impact on the roads and associated junctions onto the adopted highway.

Nottinghamshire County Council as Rights of Way Authority are currently dealing with a claim to make the Avenue from the junction of Ethel Avenue and Emmanuel Avenue to Kenrick Road a bridleway (Carlton Parish Public Bridleway) and have advised that the Avenue should be treated as a substantive right of way. I note the applicant has a personal right of way over the potential bridleway, as do the owners of the land on the Carnarvon Allotments and their successors in title. There is therefore a substantive number of people who potentially have the right to use the Avenue.

I would therefore concur with the comments of the County Highways Officer that the proposed development would result in vehicles using a sub-standard access to Kenrick Road which would adversely affect the safe unencumbered movement of pedestrians and as a consequence would result in pedestrian/vehicle conflict to the detriment of pedestrian safety.

When considering car parking provision for the new development the Borough Council Parking Provision for Residential Developments Supplementary Planning Document (SPD) is relevant. I note that the SPD requires 2 no. car parking space to serve a four bedroom dwelling in a built up area, as such the off street car provision is in line with the guidance set out within the SPD.

Other issues

I note comments raised in relation to the red line and ownership issues. The plans have been amended to exclude the strip of land running along the backs of the properties fronting Kenrick Road. The ownership of this strip of land is unknown.

I note that Nottinghamshire Wildlife Trust have requested that a scoping survey for bat roost potential is undertaken by a competent ecologist on all relevant structures on site, with further surveys to be conducted at the correct time of year if required, and that nesting birds are considered. In my opinion, protected species surveys could be requested by condition. The landowner would also need to comply with the Wildlife and Countryside Act 1981 (as amended) at all times.

With regards to flood risk and drainage issues I would suggest that this could be dealt with by a condition attached to any permission requiring the submission of drainage plans for approval by the Borough Council.

With regards to access for the Fire and Rescue Service the development would need to comply with Approved Document B – Fire Safety, administered under Building Regulations Approval. This could be dealt with through an advisory note as part of an approval.

I am satisfied that any adverse noise or pollution issues which may arise can be controlled under Environmental Health legislation.

I note that any area of land has been excluded from the application. Any future application for housing development on Ethel Avenue would be dealt with on its own merits at that time.

Any damage caused to neighbouring properties during construction would be a private legal matter between the parties concerned.

The impact on properties values is not a material planning consideration in the determination of the application.

The application has been advertised in accordance with Gedling's Statement of Community Involvement.

Conclusion

Accordingly for the highway reason set out above I recommend that planning permission is refused on the grounds of the sub-standard access to Kenrick Road which would adversely affect the safe unencumbered movement of pedestrians and as a consequence would result in pedestrian/vehicle conflict to the detriment of pedestrian safety. The proposal would therefore be contrary to Policies 10 of the Aligned Core Strategy and Saved Policies H7 and ENV1 of the Gedling Borough Replacement Local Plan. The proposed development would also fail to accord with paragraph 63 of the NPPF which seeks to ensure that new development is of good design.

Recommendation:

To REFUSE PLANNING PERMISSION:

1. In the opinion of the Borough Council as Local Planning Authority and the County Council as Highway Authority the proposed development would result in vehicles using a sub-standard access to Kenrick Road which would adversely affect the safe unencumbered movement of pedestrians and as a consequence would result in pedestrian/vehicle conflict to the detriment of pedestrian safety. The proposal is therefore contrary to the National Planning Policy Framework 2012, Policy 10 of the Aligned Core Strategy 2014 and Policies ENV1, H7 and T10 of the Gedling Borough Replacement Local Plan (Certain Saved Policies) 2008.

Notes to Applicant

Planning Statement - The Borough Council has worked positively and proactively with the applicant in accordance with paragraphs 186 to 187 of the National Planning Policy Framework. The proposal was the subject of discussions, the agent and applicant was made aware of the policy objections and revisions sought to mitigate any adverse impacts on the protected trees.

