

Application No:	18/00401/FUL	
Proposal:	Application to vary conditions 2 and 7 attached to planning permission 16/02172/FUL (for erection of two 2 bed dwellings) to amend the proposed layout and update the car parking layout and boundary treatments	
Location:	Land at Eastfield Close Clipstone Nottinghamshire	
Applicant:	Newark and Sherwood Homes	
Registered:	6th March 2018	Target Date: 1st May 2018

This application is one of several schemes currently being considered by the Council for the residential development of land owned by the Council. The need for affordable housing remains high on the Council's agenda, as indeed it does nationally. The development is being put forward as part of a five year building programme by Newark and Sherwood Homes (NASH) to deliver approximately 360 new affordable dwellings across the District to directly meet affordable housing need. Under the Council's constitution, schemes submitted specifically as part of this 5 year affordable housing programme need to be determined by the Planning Committee where the officer recommendation differs from that of the host Parish or Town Council.

Previously the officer recommendation differed from that of the Parish Council and the application was presented to Planning Committee on the 7th February 2018 for determination when Members resolved to grant planning permission.

The Site

Eastfield Close is a residential cul de sac located within the main built up area of Clipstone accessed from Central Drive. The application site comprises triangular area of circa 0.072 hectares of land currently used as a public parking area providing circa 13 off street spaces with pockets of grassed and soft landscaped areas to the front and rear.

The surrounding area consists of a mix of semi-detached and two and single storey dwellings. Immediately to the south west are a pair of semi-detached two storey dwellings set at an angle to the application site whilst to the south east towards the rear of the site are a pair of semi-detached bungalows. There are semi-detached bungalows directly opposite the site on the other side of Eastfield Close.

Relevant Planning History

16/02172/FUL – Planning permission was granted in February 2017 for the erection of a pair of two storey semi-detached 2 bed dwellings with off street parking to the side together with the provision of 9no. public parking spaces to replace those to be lost to facilitate the development.

The Proposal

Conditional planning permission was originally granted in February 2017 for the erection of 2 dwellings and the provision of replacement public parking spaces (16/02172/FUL)

Condition 2 of this original permission relates to approved drawings and states that:-

The development hereby permitted shall not be carried out except in complete accordance with the following approved plan reference

*Proposed Site Layout Plan - drawing no. **40860/ID132/003A***

Proposed Plan and Elevations - drawing no. 40860/ID132/004

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Condition 7 of this permission again refers to the approved layout drawing. This states :-

*No part of the development hereby permitted shall be brought into use until the replacement public parking areas are provided in accordance with the approved plan (**rg+p drawing ref: 40860/D132/003A.**) The parking areas shall not be used for any purpose other than parking, loading and unloading of vehicles.*

This Section 73 application seeks to vary these conditions to take account of the proposed revised site layout drawing (drg ref. 40860/AD132/008A) which re-sites the dwellings further back into the site and relocates the proposed parking areas to serve the dwellings from the side of the properties to the front and the shows revisions to the siting of the 9 no. replacement public parking spaces and consequential revised landscape plan (drg. ref:- Landscape Specification Plan MR17-062-109A) together with proposed plan and elevations (drg ref. 40860/ID132/009A, proposed drainage drg ref. 100 P03, Site setting out and external works drg ref. 41019/ID132/001C, soft landscape specification drg. Ref. . MR17-062/109, site plan drg ref. 001 revision P02, House Type D (notwithstanding window detail) - drawing no. 010 revision P03 and Material Elevations Plans - drawing no. 40860/ID132/006B.

The applicant has advised that the revised layout is to avoid the relocation of the internet provider's telecoms box that fell in front of two replacement parking spaces which would not be feasible to be moved.

There would also be a revision to the side elevation of plot 1 by virtue of the removal of a ground floor window to the side elevation (as shown on revised drg ref. 4080/ID32/009).

The revised/additional plans deposited with the application also indicate drainage, landscape and boundary treatment details together with details of external materials. These details would address some of the pre commencement/use conditions (3, 4, 5, 6, 7 and 12) attached to the previous planning permission.

Departure/Public Advertisement Procedure

Occupiers of 12 properties have been individually notified by letter. A site notice has also been displayed near to the site.

Planning Policy Framework

The Development Plan

Newark and Sherwood Core Strategy DPD (adopted March 2011)

Spatial Policy 1 - Settlement hierarchy
Spatial Policy 2 - Spatial distribution of growth
Spatial Policy 6 - Infrastructure for Growth
Spatial Policy 7 - Sustainable transport
Core Policy 1 - Affordable Housing Provision
Core Policy 3 - Housing Mix, Type and Density
Core Policy 9 – Sustainable design
Core Policy 10 - Climate Change
Core Policy 12 - Biodiversity and Green Infrastructure

Allocations & Development Management DPD (adopted July 2013)

DM1 – Development within settlements central to delivering the spatial strategy
DM3 - Developer Contributions
DM5 – Design
DM7 - Biodiversity and Green Infrastructure
DM12 – Presumption in Favour of Sustainable Development

Other Material Planning Considerations

- National Planning Policy Framework 2012
- Planning Practice Guidance, on line resource

Consultations

Clipstone Parish Council – No comments received at the time of writing this report. Any comments received will be reported on the late items schedule.

NCC Highways Authority – This application is for the amendment of Conditions 2 and 7 of planning permission 16/02172/FUL, as a revised site layout plan is submitted and the development is now required to be constructed in accordance with plan 40860/ID132/008A.

The layout is acceptable to the Highway Authority, therefore, there are no objections to this application.

NSDC, Environmental Health Contaminated Land – No comments received.

At the time of writing this report 1 written representation has been received from local residents/interested parties which can be summarised as follows. Any further comments received will be reported to Planning Committee as a late item.

- There are existing on street parking issues and access for disabled residents to their properties;

- There are no disabled parking spaces shown to be proposed; and
- There is room in front of the local centre which could provide additional parking spaces.

Appraisal

Principle of Development

Section 73 of the Town and Country Planning 1990 Act provides that applications may be made for planning permission to remove or vary conditions applied to a previously approved planning permission. It is stated that local authorities may decide whether to grant permission subject to differing conditions, remove the conditions altogether or refuse to alter the conditions. Thus it is possible to apply for conditions to be struck out, or for their modification or relaxation. The section makes it clear that in considering such an application a local planning authority may only consider the “question of the conditions” affected rather than considering the principle of the development again. However, in terms of decision making, a Section 73 application should be treated just like any other application, and due regard paid to the development plan and other material considerations.

An application under Section 73 is therefore a fresh planning application but should be determined in full acknowledgement that an existing permission exists on the site. This Section provides a different procedure for such applications for planning permission and requires the decision maker to consider only the question of the conditions subject to which planning permission was granted. As such, the principle of the approved development cannot be revisited as part of this application.

The principle of development has been established through the previous granting of planning permission (16/02172/FUL), it is only the amendments as outlined above in the proposals section of this report which are the subject of this application.

The application seeks to amend the layout, landscaping, boundary treatments and detailing of the previously approved dwellings. The amendments sought are outlined within the proposal section of this report.

Although the principle of the development has already been established in light of the nature of the proposed amendments the following planning considerations would need to be reassessed.

Impact on Character of the Area

The NPPF states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. Core Policy 9 states that new development should achieve a high standard of sustainable design and layout that is of an appropriate form and scale to its context complementing the existing built and landscape environments. Policy DM5 of the DPD states that local distinctiveness should be reflected in the scale, form, mass, layout, design and materials in new development.

The layout of the development has still been designed such that the proposed buildings remain to be set back from the highway, albeit some 6.6m rather than the circa 4.6m previously proposed. I

am mindful that the proposed revised layout will result in greater areas of hard surfacing to the street frontage given the re-siting of the buildings, the relocation of the parking spaces serving the approved dwellings and the re-siting of some of the public parking spaces again to the street frontages. In the previously approved scheme 11 trees were shown to be retained. The revised layout plan indicates the loss of a further tree to the corner of the site adjacent to no. 7 Eastfield Close. I remain of the opinion that the modest number of trees to be lost would not result in any significant detrimental impact upon the visual amenity of the streetscene or the proposed development. Additional plans showing the proposed construction method for the foundations have been deposited together with confirmation that the foundations will not unduly impact on the roots of trees to be retained. I therefore remain satisfied that the character and appearance of the area will not be unduly harmed by virtue of the retention of some of the existing mature trees and pockets of landscaping together with small pockets of additional landscaping.

Taking these factors into account I consider that, on balance, the revised layout and the revised landscaping scheme of the proposed development would not result in any greater impact upon the visual character or amenity of the immediate street-scene or the wider area than the previously approved scheme. The proposal therefore complies with Core Policy 9 and Policy DM5 in this regard.

Impact on Residential Amenity

The NPPF seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings. Policy DM5 of the DPD states that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

Taking account of the re-siting of the proposed dwellings further back into the site given their relationship with and separation distances from the adjacent dwellings and those on the opposite side of Eastfield Close together with the orientation of the plots and existing boundary treatments I remain satisfied that the proposal would not result in any undue overshadowing, overbearing or direct overlooking impacts to justify refusal on these grounds.

Notwithstanding this, revised elevations have been received which show the first floor side windows serving the bathrooms to be a slightly different design (they are now shown to be high level top hung rather than half and half frames). Condition 13 of the original permission requiring these to be obscure glazed and non-opening up to a minimum height of 1.7m will safeguard the amenity of the neighbouring properties.

Although the revised layout reduces the length of the rear gardens serving the proposed dwellings I am of the view that any future occupiers would still be afforded private amenity space within their rear gardens commensurate to the size of the dwellings.

Taking these considerations into account I remain satisfied that the proposed development would not result in any greater impact upon the residential amenity of existing neighbouring dwellings in terms of overlooking, overbearing impact or overshadowing than the previously approved scheme and would continue to provide an appropriate standard of amenity for future occupants of the properties. It is therefore considered that the proposal would accord with Policy DM5 of the DPD.

Impact on Highway Safety

Policy DM5 is explicit in stating that provision should be made for safe and inclusive access to new development whilst Spatial Policy 7 encourages proposals which place an emphasis on non-car modes as a means of access to services and facilities.

I note the comments received in respect of the potential impact of the loss of existing off street parking and the problems already experienced in the area with on street parking.

The Highway Authority has raised no concerns with regards to this matter nor have any concerns been raised more generally with regards to the impact of the proposals on on-street parking or vehicle/pedestrian access in the area.

Furthermore parking on Eastfield Close is not restricted by any Traffic Regulation Order which allows on street parking and there is already no control over the number of existing residents, their visitors or other members of the public who are able to park on the street. Notwithstanding this I am mindful that the proposal would result in the overall loss of four of the existing public parking spaces. However, given that 9 public spaces will remain to be provided I am of the view that this would not so significantly alter the existing situation to justify refusal of planning permission.

Furthermore the site layout plan deposited with the application indicates appropriate off street parking provision for the proposed dwellings.

Given that the Highway Authority raise no objections to the proposal I am satisfied that the proposed scheme would not result in highway issues to justify refusal on these grounds. The proposal is therefore considered to accord with Policy SP7 and DM5.

Conclusion

For the reasons outlined above it is therefore considered that the proposed variation of the conditions 2 and 7 is acceptable and that the application should be supported.

As noted above, Section 73 allows the Local Authority to modify conditions as deemed necessary upon the granting of a variation. In this instance additional details of landscaping, boundary treatments, drainage and elevations have been deposited as part of this application before Members which satisfy the pre commencement conditions attached to the original planning permission. Therefore wording to conditions 3 (materials), 4 (boundary treatments) 5 and 6 (landscaping) and 12 (glazing to first floor side windows) have been worded accordingly.

RECOMMENDATION

That full planning permission is approved subject to the following conditions:-

01

The development hereby permitted shall not begin later than three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

02

The development hereby permitted shall not be carried out except in complete accordance with the following approved plan reference

- Proposed Site Layout Plan – drawing no. 40860/ID132/008B received on the 14th March 2018
- Proposed Plan and Elevations – drawing no. 40860/ID132/009A deposited on the 14th March 2018
- Proposed Drainage – drawing no. 100 P03
- Site Setting Out And External Works – drawing no. 41019/ID132/001C received 18th March 2018
- Soft Landscape Specification – drawing no. MR17-062/109A
- Site Plan - drawing no. 001 revision P02 received 13th March 2018
- House Type D (notwithstanding window detail) - drawing no. 010 revision PO3 received 13th March 2018
- Material Elevations Plans - drawing no. 40860/ID132/006B received 14th March 2018

unless otherwise agreed in writing by the local planning authority through the approval of a non-material amendment to the permission.

Reason: So as to define this permission.

03

The development hereby approved shall be carried out in complete accordance with the details of external materials shown on drawing no. 40860/ID132/006B (Material Elevations) unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of visual amenity.

04

The development hereby approved shall be carried out in complete accordance with the details of the boundary treatments as shown on drawing no. 41019/ID132/001C (Site Setting Out And External Works). The approved scheme shall be implemented prior to the occupation of the dwelling and shall then be retained in full for a minimum period of 5 years unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of residential and visual amenity.

05

The development hereby approved shall be carried out in complete accordance with the soft and hard landscaping details indicated on the following drawings:-

Site Setting Out And External Works – drawing no. 41019/ID132/001C; and

Soft Landscape Specification – drawing no. MR17-062/109A

Reason: In the interests of visual amenity and biodiversity.

06

All hard and soft landscape works hereby approved shall be carried out in accordance with the drawings approved under condition 5 of his permission before any part of the development is occupied or in accordance with the programme agreed with the local planning authority.

Reason: To ensure the work is carried out within a reasonable period and thereafter properly maintained, in the interests of visual amenity and biodiversity.

07

No part of the development hereby permitted shall be brought into use until the replacement public parking areas are provided in accordance with the approved plan (rg+p drawing ref: 40860/ID132/008B.) The parking areas shall not be used for any purpose other than parking, loading and unloading of vehicles.

Reason: In the interests of highway safety.

08

No part of the development hereby permitted shall be brought into use until the individual access driveways are constructed with provision to prevent the unregulated discharge of surface water from the driveway, parking, and turning areas to the public highway in accordance with details first submitted to and approved in writing by the LPA. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: In the interests of highway safety.

09

No part of the development hereby permitted shall be brought into use until each replacement public parking spaces are constructed with provision to prevent the unregulated discharge of surface water from the driveway, parking, and turning areas to the public highway in accordance with details first submitted to and approved in writing by the LPA. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: In the interests of highway safety.

10

No part of the development hereby permitted shall be brought into use until dropped vehicular footway crossings are made available for use at each individual driveway and each of replacement public parking areas are constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

11

Notwithstanding the provisions of the Town and County Planning (General Permitted Development) (England) Order 2015, other than development expressly authorised by this permission, there shall be no development under Schedule 2, Part 1 of the Order in respect of:

Class A - enlargement, improvement or other alteration of a dwellinghouse

Class B - additions etc to the roof of a dwellinghouse

Class C - other alterations to the roof of a dwellinghouse

Class D - porches

Class E - buildings etc incidental to the enjoyment of a dwellinghouse

Or Schedule 2, Part 2:

Class A - gates, fences, walls etc

Reason: In the interests of visual and residential amenity.

12

The first floor window opening on the side elevations of the properties shall be obscured glazed to level 3 or higher on the Pilkington scale of privacy or equivalent and shall be top opening (the opening being a minimum height of 1.7m above the internal floor level of the room in which it is installed) as shown on drawing no. 40860/ID132/009A (Proposed Plan and Elevations) hereby approved. This specification shall be complied with before the development is occupied and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: To safeguard against overlooking and loss of privacy in the interests of amenity of occupiers of neighbouring properties.

Notes to Applicant

01

The applicant is advised that all planning permissions granted on or after the 1st December 2011 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website at www.newark-sherwooddc.gov.uk/cil/

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.

02

The application as submitted is acceptable. In granting permission without unnecessary delay the District Planning Authority is implicitly working positively and proactively with the applicant. This is fully in accordance with the Town and Country Planning (Development Management Procedure) Order 2010 (as amended).

03

The development makes it necessary to construct vehicular crossings over a footway of the public highway. These works shall be constructed to the satisfaction of the Highway Authority. You are, therefore, required to contact VIA in partnership with NCC tel: 0300 500 8080 to arrange for these works to be carried out.

BACKGROUND PAPERS

Application case file.

For further information, please contact Bev Pearson on ext. 5840.

All submission documents relating to this planning application can be found on the following website www.newark-sherwooddc.gov.uk.

Matt Lamb
Business Manager – Growth and Regeneration

Committee Plan - 18/00401/FUL

