

**Wards Affected:** Wollaton West

**Item No:**

**Planning Committee  
20th October 2021**

**Report of Director of Planning and Regeneration**

**770 Wollaton Road, Nottingham, NG8 2AP**

**1 Summary**

Application No: 21/01219/POUT for outline planning permission

Application by: Dr & Mrs AN & MC Fawcett

Proposal: Three dwellings, replacing existing dwelling.

The application is brought to Committee because it has generated significant public interest that is contrary to the officer recommendation.

To meet the Council's Performance Targets this application should have been determined by 8<sup>h</sup> September 2021. An extension of time has been agreed with the applicant until

**2 RECOMMENDATIONS**

2.1 To **GRANT PLANNING PERMISSION** for the reasons set out in this report, subject to:

- (i) the indicative conditions substantially in the form of those listed in the draft decision notices at the end of this report;

2.2 Power to determine the final details of the terms of the conditions of planning permission to be delegated to the Director for Planning and Regeneration.

**3 SITE, SURROUNDINGS AND BACKGROUND**

3.1 The site contains a large two storey detached dwelling located in a predominantly residential area. The dwelling is setback from the street by a large front garden with two driveways and a number of large trees. The front garden is within the Wollaton Village Conservation Area, but the dwelling and rear garden are not, although they abut the Conservation Area. There is a detached garage to the northern side of the property. The rear garden is very large and forms an L shape that wraps around to the rear of 268 Wollaton Road. A large single story structure housing a swimming pool sits within the garden, along with a number of other small outbuildings. The site is generally enclosed by mature vegetation, including a number of large mature trees.

3.2 The neighbouring property immediately to the north has recently been demolished and a replacement dwelling constructed, along with a large

outbuilding at the bottom of the rear garden. To the south are two bungalows on Rectory Avenue that back onto the site with short gardens of 4-5m in depth. These properties are on an elevated ground level relative to the application site.

#### **4 DETAILS OF THE PROPOSAL**

- 4.1 Outline permission is sought for the demolition of the existing dwelling and its replacement with 3 new dwellings, with access to the rear of the site provided by a private drive alongside the southern site boundary with 768 Wollaton Road. This outline application is only seeking permission for the principle of the development at this stage, along with access arrangements. Details of layout, scale, appearance and landscaping would follow with a subsequent Reserved Matters application.
- 4.2 An indicative site layout has been provided showing a new two story dwelling in the same location as the existing dwelling, but with a smaller footprint that also allows the driveway to be created to the rear of the site. To the rear, two dormer bungalows are proposed along with detached double garages and a central shared driveway/turning area to the front of the dwellings. However, this is only an indicative layout to demonstrate the suitability of the principle of the development, rather than being details that you are asked to approve at this stage.

#### **5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS**

##### **Adjoining occupiers consulted:**

Neighbouring properties were notified by letter, a site notice posted and press notice published. The overall expiry date was 23 September 2021.

A petition with 75 signatures was received in objection to the proposal, stating the following concerns:

- The new development would negatively impact on the aesthetic appeal of the village, potentially damage nearby housing in a conservation area – buildings date back as far as 1420 – and increased traffic on an already busy road with two nursery schools.

Six representations have been received objecting to the proposed development for the following reasons:

- The proposal would seriously affect the privacy that neighbouring homes enjoy at present.
- Adversely affect the light in to the back garden of neighbouring properties.
- Impact on the highway and parking. The road is a narrow road, cars have difficulty getting through due to cars being parked on both sides of the road.
- Loss of trees and wildlife.
- Years of disruption due to houses being demolished and rebuilt.

- The physical effect the demolition and subsequent building work may have on neighbouring property.
- Overlooking- loss of privacy due to tree removal.
- The design and appearance of bungalows within the village environment- we have already seen houses built (some unfinished) that have a detrimental impact on the history and conservation of Wollaton Village.
- Road access/Highway Safety - Wollaton Road is already extremely difficult to turn into due to parking from both the Admiral Rodney, Cricket Club and 2 Nurseries. 6 more potential cars and their visitors will also add to this traffic.
- Nature conservation - the mature trees and hedges are a hive of activity for wildlife. There have been recent tree removals without permission at the property next to 770 which is an ongoing concern.
- Noise and disturbance, more residents and cars along the boundary of the rear gardens on Rectory Avenue; generating noise and light pollution.
- The existing house is beautiful, one of the nicest in the village, and should not be torn down.
- It would have a significantly detrimental impact upon the character of the area by introducing an incongruous form and layout of new development in the rear garden of the existing dwelling.
- Entirely unacceptable in principle given that it is seeking to introduce an entirely alien form of 'backland' housing development and associated infrastructure that is wholly out of character with the character and pattern of development in the immediate area.
- The proposed development (which includes new access road, houses and detached garages) due to its size, scale and layout would have a highly detrimental overbearing and overshadowing impact upon the principal outdoor amenity area of the neighbouring property.
- The application includes the erection of a number of detached garages and domestic infrastructure. This would be an incongruous feature in the street scene and highly visible from the roadside and therefore by members of the public.
- The development seeks to introduce an incongruous form and layout of new development in the rear garden of the existing dwelling and this does not reflect the form of existing development along Wollaton Road.

Two representations have been received stating that they do not object in principle, but the following comments are made:

- A Heritage Statement should have been submitted due to part of the site being in the conservation area.
- When the reserved matters application is considered, no windows should overlook neighbouring properties.
- One of the proposed garages should be removed to ensure the existing hedge is not damaged.
- Existing and proposed ground levels should be confirmed on a plan (at the Reserved Matters stage).
- The existing frontage of the site is attractive, and vegetation should be maintained and enhanced.
- Mindful of trees with TPOs and within the CA.

- Consideration to be taken of the location of bin storage.
- The Conservation Officer should be consulted.

**Additional consultation letters sent to:**

**Environmental Health and Safer Places:** No objection.

**Tree Officer:** The Arboricultural Impact Assessment shows that the better quality trees are proposed to be retained. It is a concern that the garden for plot 2 would be dominated by T12 creating significant pressure for heavy crown reduction or the removal of this tree in the future. It is not clear if this tree is in the ownership of the site or the adjacent land. Poses the question if the site could accommodate three dwelling and achieve the proposed retention of trees successfully.

The proposal will mean a loss of some trees with limited space to mitigate with replacement planting, so will result in a net loss of canopy cover.

If the application is approved, reserved matters must include details of:

- position of services and installation methods so as not to affect retained trees
- specialized foundation design

## **6 RELEVANT POLICIES AND GUIDANCE**

### **National Planning Policy Framework (2021):**

The NPPF advises that there is a presumption in favour of sustainable development and that applications for sustainable development should be approved where possible.

Paragraph 126 notes that the creation of high quality beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development.

Paragraph 130 of the NPPF states that planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

In determining applications that may affect heritage assets, paragraph 194 of the NPPF advises that local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

Paragraph 197 of the NPPF then states that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraphs 199 – 202 indicate that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation...irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Paragraph 200 states that Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

Paragraphs 203-205 require that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

### **Aligned Core Strategies (ACS) (2014)**

Policy A: Presumption in Favour of Sustainable Development

Policy 1: Climate Change

Policy 8: Housing Size, Mix and Choice

Policy 10: Design and Enhancing Local Identity

Policy 11: The Historic Environment

Policy 14: Managing Travel Demand

Policy 17: Biodiversity

### **Land and Planning Policies (LAPP) (2020)**

Policy CC1: Sustainable Design and Construction

Policy HO1: Housing Mix

Policy DE1: Building Design and Use

Policy DE2: Context and Place Making

Policy EN6: Biodiversity

Policy EN7: Trees

Policy HE1: Proposals Affecting Designated and Non-Designated Heritage Assets

Policy TR1: Parking and Travel Planning

## **7. APPRAISAL**

### **Main Issues**

(i) Principle of the Development

(ii) Layout and Design Considerations, Impact on the Conservation Area

- (iii) Impact on the Amenities of Surrounding Residents
- (iv) Highway Considerations
- (v) Trees

**(i) Principle of the Development** (Policies A and 8 of the ACS, Policy HO1 of the LAPP)

- 7.1 The proposals would result in the redevelopment of a site currently in residential use and within a predominantly residential area. In accordance with Policy HO1 of the LAPP which seeks to encourage the development of residential sites outside of the City Centre for family housing, the principle of the proposal is therefore considered to be acceptable.

**(ii) Layout and Design Considerations, Impact on the Conservation Area** (Policies 10 and 11 of the ACS, Policies DE1, DE2 and HE1 of the LAPP. S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990)

- 7.2 With regards the demolition of the existing dwelling, there are felt to be no grounds on which this could reasonably be resisted. Whilst positive reference has been made to the property in the representations received, it has no protection as a heritage asset and is of no special architectural merit. Indeed, in recent years two other properties along this frontage to Wollaton Road, nos. 772 (next door) and 778, have been demolished and replaced with new properties. The replacement property would be smaller than the current one but appropriate in scale to the other detached properties along this frontage. Its replacement would be subject to careful consideration in terms of scale, design and materials as part of the subsequent Reserved Matters application.
- 7.3 The curtilage of 770 is notably larger than those of the other detached properties along this frontage of Wollaton Road, both in terms of the primary plot width but also noting that it incorporates land to the rear of no. 768. This arrangement is historic, with 268 built within the larger grounds of no. 770, rather than the latter acquiring the rear portion of no. 268's curtilage. The size of the curtilage is felt to offer the opportunity for redevelopment without it appearing as a contrived or overly intense backland development. Its relationship with Rectory Avenue is also notable in this regard; whilst this adjacent roadway is part of the historic core of Wollaton Village, it was originally little developed and has been infilled over the years to create a street with properties either side. The proposal would similarly extend the depth of development back from Wollaton Road but alongside this historic street pattern, rather than constituting an isolated built form surrounded by undeveloped gardens. Furthermore, the proposed dwellings to the rear of the site would not be visible in public views and would not read as an inappropriate pattern of development.
- 7.4 Whilst not a matter for consideration at this stage, the indicative layout is felt to demonstrate that the site can accommodate three dwellings. Plot 1 would simply replace the existing property in terms of its position whilst plots 2 and 3 would equally be provided with adequate curtilages, including sufficient room for private rear gardens and facilities for parking and manoeuvring vehicles.

- 7.5 The proposal is for plots 2 and 3 to be 1.5 storey dwellings and it is considered appropriate for their height to be either single or 1.5 stories, subject to detailed design consideration, in order to respect the amenities of adjacent properties. Furthermore, no assurance can be given to the footprints of the proposed dwellings at this stage, which would need to be assessed further at the detailed design stage and may be reduced as a result.
- 7.6 The front of the site, comprising the front garden of the existing property and including its two driveways and a number of large trees, are located within the Wollaton Village Conservation Area (CA). The boundary of the CA stops just before the frontage of the dwelling, as is the case with all of the properties fronting this side of Wollaton Road to the north.
- 7.7 In terms of development within the CA, none of the trees would be removed and one of the driveways and associated access would be removed, to be replaced by a new section of driveway elsewhere. On this basis, it is considered that the impact of the proposed development actually within the CA would be neutral to positive. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that there is a general duty to pay special attention to the desirability of preserving or enhancing the character or appearance of any building or land within a CA. This duty is considered to have been satisfied in this case, as the character or appearance of the land would at least be preserved meaning there is no presumption against the grant of planning permission in this instance.
- 7.8 It is also considered that the proposed development would not harm the setting of the CA or any listed buildings within the locality as heritage assets. The historic core of the village is to the south. The nearest listed building is 1 Bramcote Lane (Grade II) which lies approximately 70m to the south, whilst the Grade II\* listed St Leonards Church is approximately 130m from the site. The proposed development would not be visible in public views from, or seen within the context of, this historic core, particularly given the lower ground level of the site and the mature vegetation enclosing its southern boundary.
- 7.9 In conclusion, the visual impact of the proposed development is considered to be acceptable and in accord with policies 10 and 11 of the ACS, policies DE1, DE2 and HE1 of the LAPP, and S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990).

**(iii) Impact on the Amenities of Surrounding Residents** (Policy 10 of the ACS, Policies DE1 and IN2 of the LAPP)

- 7.10 The representations received from neighbouring residents expressing concern and objection regarding the impact of the proposed development upon their amenities are noted.
- 7.11 As described above, the site is considered to be capable of accommodating three dwellings within adequately sized plots. Whilst approval is not sought for the indicative layout, this is also felt to demonstrate that the proposed dwellings could be provided with sufficient spatial separation to protect the

amenities of neighbouring residents. Plot 1 would be a smaller replacement for the existing property so the focus in this regard is with plots 2 and 3.

- 7.12 Firstly, it is recognised that these would be either single or 1.5 storey dwellings, reducing their height and outlook at first floor level. These properties are also shown to be orientated such that they would present secondary side elevations to the north and south, again respecting the neighbouring properties that share these boundaries. Adjacent properties to the east and west are further distant and less sensitive in this regard.
- 7.13 It is also noted that the site level is significantly lower than that of the nearest properties on Rectory Avenue that back onto the site. The two nearest dwellings are in themselves single storey with short rear gardens. However, it is concluded that they would not be adversely compromised in amenity terms due to the change in ground level, the substantial hedge enclosing the site boundary at this point, and the ability to achieve an adequate separation distance to what would be the side elevation of a single/1.5 storey dwelling. A further substantial hedge and other mature vegetation would similarly help to protect the outlook from 268 Wollaton road.
- 7.14 Some of the representations refer to the potential for the proposed development to compromise the retention of boundary vegetation and also the structural integrity of adjacent, historic properties. However, the indicative site layout demonstrates that adequate separation from the site boundaries could be achieved.
- 7.15 Noise and disturbance during construction is not a material planning consideration but an informative would be included on any permission setting out the requirements of Environmental Health legislation that would need to be satisfied in this regard.
- 7.16 Subject to approval of the detailed scheme at the Reserved Matters stage, it is considered that that amenities of neighbouring residents would be adequately safeguarded in accordance with policies 10 of the ACS and policies DE1 and IN2 of the LAPP.

**(iv) Highway Considerations** (Policies 10 and 14 of the ACS, Policy TR1 of the LAPP)

- 7.17 Given that two vehicular access points already exist at the site, one of which is to be removed, it is not considered that the proposed development would have a detrimental impact upon the public highway. The provision of two additional dwellings would result in no meaningful increase in traffic and all of the three dwellings would be provided with adequate off-street parking, thereby adding no greater pressure to the current on-street parking pressures along Wollaton Road.
- 7.18 The proposal is therefore considered to accord with policies 10 and 14 of the ACS and policy TR1 of the LAPP.

## **OTHER MATTERS**

### **Trees (Policy EN7 of the LAPP)**

- 7.19 The Arboricultural Impact Assessment submitted as part of the application shows the trees of notable quality to be retained, particularly to the front of the property, within the CA. The majority of the trees within the rear garden proposed to be removed are modest ornamental species of limited value that it would be permitted to remove without any formal approval. Whilst the comments of the Tree Officer are noted regarding the impact of T12 on plot 2 and the ability to plant replacement trees, given that the majority of trees to be removed are relatively modest ornamental species, it is felt that this matter can be adequately addressed at the detailed design stage, which would also establish the size and position of the dwellings.
- 7.20 Regarding the impact of the development on the trees to the front of the property, one of the driveways is proposed to be removed and the other is to form the basis of the proposed shared drive that would serve the three dwellings. Any new element of driveway would be provided by way of 'no-dig' construction where this is within a Root Protection Area (RPA). The existing dwelling encroaches into the RPA of T5 so its replacement with a 'no-dig' element of driveway offers a potential benefit in this regard, as does the removal of the existing stretch of driveway.
- 7.21 Subject to condition securing an Arboricultural Method Statement, it is considered that the proposal therefore satisfies policy EN7 of the LAPP.

## **8. Sustainability/Biodiversity (Policies 1 and 17 of the ACS, Policies CC1 and EN6 of the LAPP)**

- 8.1 The development of this highly maintained domestic curtilage that is largely laid to lawn and also comprises a swimming pool building and principally ornamental vegetation to the site boundaries, is not considered a barrier to redevelopment in these terms. Sustainability and biodiversity matters would be conditioned and considered at the detailed design stage.

## **9 Financial Implications**

None.

## **10 Legal Implications**

The issues raised in this report are primarily ones of planning judgement. Should legal considerations arise these will be addressed at the meeting.

The duty imposed by S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of any building or land within a CA.

While the duty with regard to preserving or enhancing may only require that

no harm should be caused, it nonetheless creates a “special presumption” and “considerable weight and attention” as a material planning consideration, should be given to any harm found to arise with regard to the character or appearance of the area.

The above duty means there is a strong statutory presumption against granting planning permission which does not so preserve or enhance. This must be placed in the planning balance in determining the application. However, that presumption may be outweighed by other material considerations great enough. (R(On the Application of Carnegie (On behalf of the Oaks Action Group) v Ealing [2014] EWHC 3807 (Admin)).

Under S72 it is the impact of the entire proposal which is in issue. In other words, the decision maker must consider not merely the removal of the building or land which made a positive contribution, but also the impact on the Conservation Area of the building /or land which is intended to replace it.

The weight to be attached to each of the relevant historic dimensions or ingredients of the judgment is a matter which S72 clearly leaves to the decision-maker in each individual case.

When an authority finds that a proposed development would not harm the setting of a listed building or the character or appearance of a conservation area, the presumption against the grant of planning permission will not arise.

**11 Equality and Diversity Implications**

None.

**12 Risk Management Issues**

None.

**13 Strategic Priorities**

Delivering housing and neighbourhood development

**14 Crime and Disorder Act implications**

None.

**15 Value for money**

None.

**16 List of background papers other than published works or those disclosing confidential or exempt information**

1. Application No: 21/01219/POUT- link to online case file:

**17 Published documents referred to in compiling this report**

NPPF (2021)

Aligned Core Strategies – Local Plan Part 1 (2014)

Land and Planning Policies – Local Plan Part 2 (2020)

**Contact Officer: Rob Percival**