

# 19/00478/FUL

**Applicant** Mr B Meaden & P Buckingham

**Location** Numbers 49 To 55 Trent Boulevard West Bridgford Nottinghamshire

**Proposal** Demolition of existing bungalows and erection of 4 no. detached dwellings, erection of boundary wall and associated parking.

**Ward** Lady Bay

## THE SITE AND SURROUNDINGS

1. The application site comprises a pair of interwar semi-detached brick and rendered bungalows with hard surfaced driveways to the front and gardens to the rear, located in a predominantly residential area with some commercial and other non-residential properties. The two adjacent properties on Trent Boulevard (nos. 47 & 57) have rear and side elevation habitable room windows close to and facing the site boundary.
2. Properties in the area are predominantly red brick Victorian semi-detached houses, with a number of interwar, mid to late 20<sup>th</sup> century, and early 20<sup>th</sup> century brick and rendered dwellings, many with hard surfaced driveways to the front.
3. The site is in Flood Zones 2 and 3 on the Environment Agency's Flood Zone maps.

## DETAILS OF THE PROPOSAL

4. Planning permission is sought for the demolition of the bungalows and the erection of four detached four bedroom houses with 1.2m high boundary walling fronting Trent Boulevard, and two parking spaces for each dwelling. The dwellings would have the appearance of two storey buildings with accommodation in the roof spaces served by dormer windows, roof lights, and a front glazed gable feature to two plots (2 & 3).
5. The design and appearance would be traditional with contemporary elements. The two 'outer' dwellings would be the same design (one a handed version of the other) and would have an angled ground floor front elevation bay window with a first floor flat roofed angled projection above, and a flat roofed front dormer. The two 'inner' dwellings would also be the same design (again one a handed version of the other) and would have a front gable feature with a triangular window and a higher ridge than the two 'outer' dwellings. All four dwellings would have two rear dormer windows. The external materials would be a combination of brick and white/putty render for the walls, grey Duo Edgemere grey plain concrete roof tiles and dark grey cladding for the dormers.
6. In order to minimise flood risk to future occupants, the ground floor levels would be around 0.7m above ground level, with steps to the front and rear entrances.
7. The Design & Access Statement states:

- The dwellings are designed with a contemporary style in mind, drawing inspiration from the street scene, and remaining subservient in scale to neighbouring properties.
  - Splitting the elevations into three elements references the style of neighbouring properties with ground floor bay windows, large first floor windows and converted lofts.
  - The scaling of the elevations sits comfortably in relation to the neighbours and acts as a contemporary re-interpretation of traditional properties in the area.
8. A Flood Risk Assessment was also submitted.
9. As a result of concerns raised by officers, relating to siting, scale, design and appearance, impact on the amenities of neighbouring properties (47 & 57 Trent Boulevard) and the garden sizes of the proposed dwellings, and in order to address comments from the Highway Authority, revised details have subsequently been submitted.

## **SITE HISTORY**

10. Permission was refused for a single storey side and rear extension (no. 49) in 2010 (ref. 10/01900/FUL). Permission was granted for single storey rear extensions (no. 49) in 2012 and 2015 (refs. 12/00107/FUL and 15/00985/FUL).

## **REPRESENTATIONS**

### **Ward Councillor(s)**

11. One Ward Councillor (Cllr S Mallender) objects on grounds summarised as follows.
- a. Agrees with the comments of the Highway Authority.
  - b. There is already a very high demand for on-street parking in this area and more will result in danger to pedestrians and other users of the road and pavement, including children attending the nearby primary school.
  - c. Agrees completely with the comments made by the Environmental Sustainability Officer.
  - d. Considerable detriment to the amenity of neighbouring properties, in particular, 47 & 57 Trent Boulevard, 14 Melbourne Road and 2 Woodland Road from considerable overbearing, overshadowing and loss of privacy & light.
  - e. The proposed houses would be detrimental to the street scene in that four narrow properties placed extremely close to neighbours on either side and to each other, would have a terracing effect on a stretch of Trent Boulevard where houses are at least 2 metres apart. The 'type 1' design with the large windows and angled first floor projections are of a design that takes no account of the design of other properties nearby.

- f. Overdevelopment of the site with four properties each with very little amenity space.
  - g. The design of the Victorian/Edwardian houses on Trent Boulevard is usually much lower at the rear which is not the case with these proposed buildings, and previous applications for blocks of flats and three and two storey houses have been rightly refused on this site for these reasons.
  - h. The numbering in Lady Bay often gives the impression that there are missing buildings, the original Victorian builders often constructed dwellings from either end of roads so that there are often quite large gaps in numbering. The two bungalows on the site were built in the former gardens of the buildings either side.
  - i. There is a severe shortage of bungalows and affordable properties in Rushcliffe as a whole and West Bridgford and Lady Bay in particular. The loss of two bungalows is detrimental to the provision of housing types in the area and particularly in consideration of the needs of elderly and/or disabled people who may wish to remain in the area but are unable to find suitable accommodation.
12. One Ward Councillor (Cllr R Mallender) objects on grounds that the development represents over development of the site and will cause loss of light and overlooking to neighbouring properties on both sides and at the rear.

### **Statutory and Other Consultees**

13. The Borough Council's Design & Conservation Officer commented (with respect to the original plans) that the design and access statement contains information illustrating that it is semi-detached properties which make up by far the most prominent form of development within the local area. Given the size of the site and the nature of immediately adjacent dwellings it does seem strange, therefore, that the application is for 4 detached properties rather than 2 semi-detached pairs.
14. The dwellings would be positioned only 1 metre apart and would appear rather tall and slender as a result. He acknowledged that detailing on many properties within Lady Bay creates a vertical emphasis - window arrangements tend to be stacked vertically with wider bays on the ground floor and narrower window openings above, sometimes topped by gables which draw the eye upwards. Whilst the proposed designs include forward gables which act as 'arrows' pointed upwards, the fenestration detailing on all 4 units features the widest windows at first floor which is at odds with the typical pattern elsewhere. The horizontal material changes also detract from vertical emphasis. It may be that vertical emphasis is being consciously avoided as a result of the tall slender nature of the units, but it results in designs very different from their context.
15. He appreciated that the bungalows on the site are clearly very much out of context, and obviously lack any element of vertical emphasis. Any replacement should, however, try and be in keeping with context and that could likely be better achieved with some relatively modest amendments to the current scheme. Even just creating a vertical hierarchy of window widths would be step in the right direction.

16. It would be far better to seek semi-detached designs where detailing emphasises verticality rather than tall slender detached units where detailing seems to emphasise horizontal lines.
17. There are no designated heritage assets nearby and the previously developed nature of the site means that it is highly unlikely that any archaeology will exist. The nearest listed buildings are at the Lady Bay Primary School some 100 metres or so to the east. Given the continuous built frontage along both sides of Trent Boulevard, the proposal would have no impact upon the special significance of Lady Bay Primary and would not harm its setting as a listed building, achieving the desirable objective described within section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
18. The Borough Council's Environmental Health Officer (EHO) has no objection but recommends conditions to require the submission of a method statement detailing techniques for the control of noise, dust and vibration during demolition and construction before works commence, and to prevent the burning of waste on the site.
19. The Borough Council's Environmental Sustainability Officer notes that the applicant has stated no protected or priority species, habitats or sites are present on or adjacent to the site. This appears reasonable considering the urban setting, and no records within the immediate vicinity, although bats are recorded elsewhere in the locality. There is potential for wild birds, bats and hedgehogs to roost, forage and shelter on the site, and the development provides opportunities for ecological enhancement. The conservation status of European Protected Species is unlikely to be impacted by the development. He also makes recommendations to mitigate any impacts where necessary on species/habitats and to provide enhancements. (The full comments are available on the website).
20. The Borough Council's Emergency Planning Officer comments that finished floor levels should be in accordance with the Flood Risk Assessment (FRA), sleeping accommodation should be restricted to the first floor, and the buildings should be built with flood resistance/repairable design including electrical sockets etc 300mm above ground floor level.
21. The Nottinghamshire County Council as Highway Authority commented (with respect to the original plans) that the proposal would be conceptually acceptable from a highway safety point of view subject to the following amendments being made:
  - the applicant will be expected to provide dropped kerb vehicular crossings in front of each vehicular access, with any redundant crossings reinstated to footway;
  - 1 off street parking space for each 4 bedroom dwelling is considered inadequate and could lead to on-street parking in the area to the detriment of highway safety, including pedestrians. 4 bedroom houses would appeal to families, and as the site is in a sustainable location within close proximity to local services and bus stops, a minimum of 2 off-street parking spaces, with a depth of 5m, should be accommodated for each dwelling;
  - 1.0m x 1.0m pedestrian visibility splays on each side of the vehicular access should be shown on the plans; and

- The proposed Aco Channel drain for the private driveway is acceptable; however, details of the means of draining the water away should be provided.
22. With respect to the revised plans, they reiterate the previously recommended conditions relating to provision of the parking areas and dropped kerb vehicular crossings. Having considered the matter further, and given the nature of development in the area, and the wide footway fronting the site, they consider that the provision of formal pedestrian splays is not justified in this instance.
23. The Nottinghamshire County Council as Lead Local Flood Authority (LLFA) has no comments as the application falls outside of the guidance set out by Government for applications that require a response from the LLFA.
24. The Environment Agency has no objections but recommends that the development is carried out in accordance with the flood risk assessment.

### **Local Residents and the General Public**

25. 35 written representations have been received with respect to the original and revised proposal raising objections and comments which are summarised as follows (the full comments are available on the website):
- a. The design, scale and height, including angular geometric shapes and other contemporary features is at odds with the style and spacing of Victorian and Edwardian houses on Trent Boulevard and would rather unpleasantly dominate the existing street scene and appear cramped. The designs would not 'take their lead' from neighbouring properties as recommended in the Rushcliffe Residential Design Guide (RRDG) and would not be 'sympathetic to local character and history' as outlined in the National Planning Policy Framework.
  - b. The proposed houses are very large in comparison to the gardens which are well below the size recommended in the RRDG for detached properties, resulting in overdevelopment of the site.
  - c. Significant harm to amenity of neighbouring properties by overbearing impact, overshadowing, loss of light and overlooking/loss of privacy.
  - d. Would fail to comply with the 25 degree and 45 degree guidelines and other separation distance guidelines including the 30m distance between habitable rooms across private gardens referred to in the RRDG.
  - e. Insufficient off street parking resulting in on street parking, congestion and danger to pedestrians including school children & cyclists, and the angled frontages will make it impossible for cars not to intrude on the pavement. Parking facilities in Lady Bay are already at saturation point.
  - f. It is stated that the proposal seeks to redevelop buildings that are no longer required for their intended use. Both have been fully occupied for over the last 35 years and are occupied now. There are many 4 bedroom, multi-storey houses in the surrounding area and very few bungalows which are much more suitable for less able people.

- g. Not a brownfield site.
- h. Increased flood risk with less natural ground to act as a sponge to flood waters and, despite the flood barriers, Lady Bay is still an Environment Agency Flood Zone and this will make it worse.
- i. Conversion into properties for multiple occupation and flats is a concern.
- j. Redevelopment of the site and returning it to family accommodation is welcome, especially as its present condition is the result of the destruction of the previous two large bungalows and replacement with cheap speculative student accommodation by the same developer. New houses would certainly be more in keeping with the surrounding area, as long as they do not adversely affect the amenity of adjacent properties.
- k. The revised plans appear to make no effort to address any concerns and previous objections still stand.
- l. The revised plans show some minor changes mostly to areas where Council guidelines have been breached (e.g. garden size and some parking space increases).
- m. Request the council considers putting a time limit on how long it takes to complete a dwelling, and set rules for noise, disturbance, and health and safety guidelines during builds.

## **PLANNING POLICY**

- 26. The Development Plan for Rushcliffe consists of the Rushcliffe Local Plan Part 1: Core Strategy (2014) (Core Strategy) and the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019) (Local Plan Part 2).
- 27. Other material planning considerations include Government guidance in the National Planning Policy Framework (NPPF) and Planning Practice Guide (PPG).
- 28. The Borough Council's Residential Design Guide (RRDG) is also relevant.

## **Relevant National Planning Policies and Guidance**

- 29. The National Planning Policy Framework 2019 (NPPF) includes a presumption in favour of sustainable development.
- 30. There are three overarching objectives to sustainable development: economic, social and environmental.
  - economic objective – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
  - social objective – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present

and future generations, and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

- environmental objective – contributing to protecting and enhancing our natural, built and historic environment, and as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.
31. Chapter 12 'Achieving well designed places' states that planning policies and decisions should ensure that developments 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, are visually attractive as a result of good architecture, are sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change, with a high standard of amenity for existing and future users.
  32. Chapter 14 'Meeting the challenge of climate change, flooding and coastal change' states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. Applications for some minor development and changes of use should not be subject to the sequential or exception tests. However, a site-specific flood risk assessment should be provided for all development within Flood Zones 2 and 3.
  33. Chapter 16 'Conserving and enhancing the historic environment' states that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and the desirability of new development making a positive contribution to local character and distinctiveness.
  34. The NPPF (and Rushcliffe Local Plan Part 2: Land and Planning Policies) define previously developed land (often described as brownfield land) as: '*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure*'.
  35. The National Planning Practice Guidance (NPPG) on flood risk and coastal changes states that it should not normally be necessary to apply the Sequential Test to development proposals in Flood Zone 1 (land with a low probability of flooding from rivers or the sea) unless the Strategic Flood Risk Assessment for the area, or other more recent information, indicates there may be flooding issues now or in the future (for example, through the impact of climate change).

## Relevant Local Planning Policies and Guidance

36. Policies 3 (Spatial Strategy), 8 (Housing Size, Mix and Choice), 10 (Design and Enhancing Local Identity) and 11 (Historic Environment) of the Rushcliffe Local Plan Part 1: Core Strategy are relevant to the consideration of the proposal.
37. Policy 3 outlines the distribution of development in the Borough during the plan period. It ensures the sustainable development of Rushcliffe will be achieved through a strategy that promotes urban concentrations by directing the majority of development towards the built up area of Nottingham and the Key Settlements.
38. Policy 8 states that residential development should provide a mix of housing tenures, types and sizes in order to create mixed and balanced communities. All residential developments should contain adequate internal living space, and a proportion of homes should be capable of being adapted to suit the lifetime of its occupants. Consideration should also be given to the needs and demands of the elderly as part of overall housing mix, in particular in areas where there is a significant degree of under occupation and an aging population.
39. Policy 10 states that all new development should be designed to make a positive contribution to the public realm and sense of place, create an attractive, safe, inclusive and healthy environment, reinforce valued local characteristics.
40. Policy 11 states that proposals and initiatives will be supported where the historic environment and heritage assets and their settings are conserved and/or enhanced in line with their interest and significance.
41. Policies 1 (Development Requirements), 17 (Managing flood risk), and 38 (Non-designated biodiversity assets and the wider ecological network) of the Rushcliffe Local Plan Part 2: Land and Planning Policies are relevant to the consideration of this application.
42. Policy 1 states permission for new development will be granted provided that, where relevant:
  - there is no significant adverse effect upon the amenity, particularly residential amenity of adjoining properties or the surrounding area, by reason of the type and levels of activity on the site, or traffic generated;
  - a suitable means of access can be provided to the development without detriment to the amenity of adjacent properties or highway safety and the provision of parking is in accordance with advice provided by the Highways Authority;
  - sufficient space is provided within the site to accommodate the proposal together with ancillary amenity and circulation space;
  - the scale, density, height, massing, design, layout and materials of the proposal is sympathetic to the character and appearance of the neighbouring buildings and the surrounding area; it should not lead to an over intensive form of development, be overbearing in relation to neighbouring properties, nor lead to undue overshadowing or loss of privacy;



- there is no significant adverse effects on important wildlife interests;
- the amenity of occupiers or users of the proposed development would not be detrimentally affected by existing nearby uses;
- there is no significant adverse effect on any historic sites and their settings including listed buildings.

The use of appropriate renewable energy technologies will be encouraged within new development and the design, layout and materials of the proposal should promote a high degree of energy efficiency.

43. Policy 17 states that planning permission will be granted in areas where a risk of flooding or problems of surface water exist provided that it does not increase the risk of flooding on the site or elsewhere.
44. Policy 38 requires, where appropriate, to seek to achieve net gains in biodiversity and improvements to the ecological network through the creation, protection and enhancement of habitats, and the incorporation of features that benefit biodiversity.
45. The Rushcliffe Residential Design Guide (RRDG) states that building designs should contribute to an active and attractive street environment. A positive design approach to the local context does not mean a repetition of what went before. Fenestration, the proportions of the building and use of related materials are all design matters that should take their lead from the neighbouring properties. Contemporary and innovative solutions which successfully address all of these issues are to be encouraged. Guidance on garden sizes and separation distances is also included, and reference is made to the 25 and 45 degree guides, which are used to assess the impact of proposed development on neighbouring properties in terms of overbearing impact and overshadowing.
46. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in assessing the impact on heritage assets is relevant.

## **APPRAISAL**

47. The site is located within the built up area, within a highly sustainable location, close to services and transport links. In terms of the strategy for delivery of housing within the Borough (see Policy 3 of the Core Strategy), the location of the site sits at the highest level of the locational hierarchy. The site has a long established use for residential purposes, albeit accommodating a less intensive number of units to that currently proposed. It is considered that the existing bungalows do not have any particular architectural or historic merit and, whilst the comments in the written representations relating to a shortage of bungalows are noted, a refusal on grounds of the loss of two bungalows could not be justified. Having regard to these factors, the redevelopment of the site for residential purposes is considered acceptable in principle.
48. As stated at paragraph 9, officers had concerns about the design and appearance of the dwellings shown on the original plans. As noted by the Design and Conservation Officer, the horizontal emphasis of relatively large first floor front windows and dormers would be at odds with the predominant pattern of Victorian properties along Trent Boulevard. The revised plans show each window replaced with two first floor windows with a vertical emphasis,

and (on plots 1 and 4) two similar windows within one dormer. The ridge heights have also been lowered.

49. As stated at paragraph 2, although properties in the area are predominantly red brick Victorian semi-detached houses, there is a variety of more recent dwellings in terms of period and design/style, finished in brick and render, and no. 47, adjacent to the site, is a detached house. In addition, there are other examples of detached properties in the immediate vicinity and elsewhere in Lady Bay. Whilst it is acknowledged that the contemporary elements of the design and use of render would appear as a contrast to the immediate Victorian neighbouring properties, it is considered that the revised proposal would represent a balanced combination of traditional and contemporary design which would be appropriate to the context, sympathetic to the character of the area, and would add interest to the street scene. It is, therefore, considered that the design and appearance would comply with guidance in the NPPF and RRDG, which states that appropriate innovation or change should not be prevented or discouraged, and that a positive design approach to local context does not mean a repetition of what went before.
50. The submitted plans show that there would be around 1m between the proposed dwellings and 57 Trent Boulevard, which is less than other properties in the vicinity, although not significantly, and around 2m between 47 Trent Boulevard and Plot 1, which is comparable to some existing properties in the vicinity. Whilst the two 'inner' dwellings would be 0.7m higher than the two 'outer' dwellings and would appear somewhat slender, they would be the same height as no. 57 which is typical of Victorian properties in the area. Consequently, it is considered that the dwellings would not have an undue cramped appearance in the street scene or result in an undue terracing effect.
51. It is acknowledged that the frontages would be predominantly hard surfaced driveways/parking areas. However, the existing frontages are hard surfaced, as is the case with the majority of properties in the vicinity.
52. Officers were also originally concerned that the siting, scale and height of the two 'outer' dwellings would have an unacceptable overbearing impact on and overshadowing to 47 and 57 Trent Boulevard, and that raised rear patio areas combined with the angled rear elevations could result in overlooking of the neighbouring gardens. Both of the neighbouring properties have rear elevation habitable room windows close to the boundary and two storey rear projections typical of properties of the period. No. 47 has a ground floor rear/side extension which has 'squared off' the footprint of the house to create a kitchen/dining/living room (incorporating the original rear living room) served by 4 side elevation windows facing the site, roof lights and rear elevation patio doors. No. 57 has a rear elevation living room window adjacent to the site boundary, and 2 side elevation kitchen/dining room windows facing the boundary and a rear elevation window in the rear projection. Both properties also have rear elevation bedroom windows adjacent to the site boundary.
53. The revised plans show the rear parts of the two 'outer' dwellings reduced in scale, and the raised patios and angled rear elevations omitted. The plans also show that the two storey parts of the proposed dwellings would comply with the 45 degree guide referred to in the RRDG when measured from the centre of the rear elevation living room and bedroom windows at nos. 47 and 57. The position of the dwelling on plot 4 would not comply with the 25 degree guide when measured from the top of one of the side elevation kitchen/dining room

windows at no. 57. However, this living area is served by other side and rear facing windows. A similar relationship would exist between windows in the side elevation of no. 47 and the dwelling on plot 1. In this instance the windows most affected serve the living room, which are two narrow openings. Again, the open plan nature of the accommodation means that this area is also served by other side facing windows/roof lights and rear facing doors. Furthermore, some of the side windows already face the boundary treatment and the built form of the existing property on the site, albeit this is currently a bungalow.

54. It should be noted that this method of assessment (the 25 degree guide) is used as a guide to the likely impacts of the development and it is still necessary to have regard for the context of the proposal, the relationship with the neighbouring properties and whether the windows affected provide the sole means of light/outlook to the accommodation. Whilst it is accepted that there would be some impact on the side elevation living room windows at these properties, as these rooms both have rear elevation windows facing the gardens of the properties, it is considered that any overbearing impact or overshadowing would not be of a magnitude that would justify a refusal.
55. In view of the distance between the proposed dwellings and those on the opposite side of Trent Boulevard and adjacent to the rear on Melbourne Road and Woodland Road, and as the proposal would be in accordance with the guidelines in the RRDG, it is considered that there would be no significant adverse impact on the amenities of these properties, or other adjacent properties, in terms of overshadowing, overbearing impact and overlooking/loss of privacy. It is, however, considered that a condition is necessary to remove permitted development rights for extensions/alterations to the two 'outer dwellings' in order to protect the amenities of 47 and 57 Trent Boulevard. It is also considered that future occupants of the development would have an acceptable standard of amenity.
56. The revised plans also show the rear gardens would be a minimum of 110 square metres, which would comply with the RRDG with respect to detached dwellings. The rear gardens would also have depths of between 15.2m and 17.3m to the boundaries, in excess of the 10m referred to in the RRDG. In view of this, and as it is considered that sufficient off street parking would be provided, (see paragraph 59 below) it is considered that the proposal would not represent an over intensive form of development.
57. The site is located in Flood Zones 2 and 3 on the Environment Agency's Flood Zone maps, which has a medium to high risk of flooding. However, the Strategic Flood Risk Assessment indicates that the site falls outside of the area identified to be 1 in 1000 annual chance of flooding. As such the area has a low probability of river flooding, equivalent to Flood Zone 1 which has a low risk of flooding. In view of this and the guidance in the NPPG, it is concluded that the site is equally comparable to other sites identified in the Strategic Housing Land Availability Assessment in West Bridgford, and the sequential test has been passed. As the Environment Agency does not object and the site is in a sustainable location close to local services/facilities, employment and public transport, it is considered that the exception test is also passed.
58. As the Environment Agency have no objections, and with a condition to ensure that the development is carried out in accordance with the FRA, it is considered that the development should be safe for its lifetime without increasing flood risk elsewhere.

59. The revised plans show two off street parking spaces for each dwelling, which would comply with the recommendations of the Highway Authority. The site is in one of the most sustainable locations in the Borough in terms of access to local services/facilities in Lady Bay and West Bridgford own Centre which are within a reasonable walking distance. The site is also on a bus route. In view of the above and in the absence of an objection from the Highway Authority, a refusal on grounds of insufficient parking and impact on highway safety could not be justified.
60. In view of the comments of the Design and Conservation Officer, it is considered that the setting of the listed buildings at Lady Bay Primary School would be preserved. Consequently, the proposal achieves the objectives described as desirable in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
61. With respect to ecology, the Borough Council has a legal duty when determining a planning application for a development which may have an impact on protected species. The species protection provisions of the Habitats Directive, as implemented by the Conservation (Natural Habitats Etc) Regulations 1994, contain three tests which Natural England must apply when determining a licence application. This licence is normally obtained after planning permission has been obtained. However, notwithstanding the licensing regime, the Planning Authority must also consider these tests when determining a planning application. A Planning Authority failing to do so would be in breach of Regulation 3(4) of the 1994 Regulations. The three tests are:
- a. the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
  - b. there must be no satisfactory alternative; and
  - c. favourable conservation status of the species must be maintained.
62. In this case the Environmental Sustainability Officer commented that the applicant's statement that no protected or priority species, habitats or sites are present on or adjacent to the site appears reasonable considering the urban setting and no records within the immediate vicinity, although bats are recorded elsewhere in the locality. He comments that there is potential for wild birds, bats and hedgehogs, to roost, forage and shelter on the site, and that the development provides opportunities for ecological enhancement. He also considers that the conservation status of European Protected Species is unlikely to be impacted by the development. It is, therefore, considered that it is not necessary to apply the tests in this instance. However, the existing rear gardens are somewhat overgrown and comprise lawn, small trees and scrub type vegetation, and there is potential for species to be found on the site. Consequently, it is considered that a condition to require bird/nesting boxes to be incorporated into the development is appropriate, in accordance with policy 38 of Local Plan Part 2, which promotes the incorporation of features that benefit biodiversity.
63. With respect to other matters raised in the written representations, it is considered that the site is previously developed (brownfield) land in accordance with the definition in the NPPF and Local Plan Part 2. The 30m distance was the recommended 'back to back' distance in the former 'Space Between Buildings' guidelines which were superseded by the RRDG in 2009. Since then the long established nationally recognised distance of 21m has

been applied in most cases. In this case, the rear elevations of the proposed dwellings would not face the rear elevations of any existing properties, properties to the north front roads that run at right angles to Trent Boulevard rather than running parallel to it.

64. There is no record of applications for blocks of flats and three and two storey houses at the site being refused. Concern or speculation about future use of the development cannot be used to resist the application. The dwellings could be occupied by up to 6 unrelated people sharing communal facilities and planning permission would not be required. Occupation by more than 6 unrelated people, and conversion of the dwellings to flats, would require planning permission.
65. The planning system cannot stipulate a time limit for completion of the development. However, in view of the level of demolition and construction involved, and proximity to neighbouring properties, it is considered that a condition is necessary to require the submission and approval of a method statement detailing techniques for the control of noise, dust and vibration, as recommended by the EHO. Burning of waste cannot be prevented by planning condition, this is an environmental health matter.
66. The application was not subject to pre-application discussions. Discussions have taken place with the applicant's agent during the consideration of the application and he was made aware of concerns about the proposed development, and revised details have been submitted resulting in an acceptable scheme and a recommendation to grant planning permission.

## **RECOMMENDATION**

It is RECOMMENDED that planning permission be granted subject to the following condition(s)

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

[To comply with Section 91 of the Town and Country Planning Act 1990, as amended by the Planning & Compulsory Purchase Act 2004].

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Project No. 124 - 002 Revision F, 003 Revision F, 004 Revision E, 006 Revision F, 007 Revision F, 008 Revision E.

[For the avoidance of doubt and to comply with policy 1 (Development requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies]

3. The development shall not commence until a method statement detailing techniques for the control of noise, dust and vibration during demolition and construction works has been submitted to and approved by the Borough Council, and the construction of the development shall be undertaken in accordance with the approved details.

[The condition needs to be discharged before work commences on site as this information was not included in the application and it is important to agree

these details in order to minimise the impact on adjacent and nearby residents during demolition and construction of the development, and to comply with policy 1 (Development requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies]

4. The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment by SCC Consulting Engineering dated January 2019, and the mitigation measures detailed at Page 6, Part 3a and Page 9, Part 6a). These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements, and the mitigation measures shall be retained thereafter throughout the lifetime of the development.

[To ensure that occupants are safe for the lifetime of the development and to comply with policy 17 (Managing flood risk) of the Rushcliffe Local Plan Part 2: Land and Planning Policies]

5. Construction of the development hereby permitted shall not proceed beyond damp proof course until details of materials to be used on all external elevations and dormers have been submitted to and approved in writing by the Borough Council, and the development shall only be undertaken in accordance with the materials so approved.

[To ensure the appearance of the development is satisfactory and to comply with policy 10 (Design and enhancing local identity) of the Rushcliffe Local Plan Part 1: Core strategy, and policy 1 (Development requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies]

6. The materials specified in the application shall be used for the roofs of the development hereby approved and no additional or alternative materials shall be used.

[To ensure the appearance of the development is satisfactory and to comply with policy 10 (Design and enhancing local identity) of the Rushcliffe Local Plan Part 1: Core strategy, and policy 1 (Development requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies]

7. None of the dwellings hereby permitted shall be occupied until the driveways/parking areas have been surfaced in a bound material and provided with drainage to prevent the discharge of surface water on to the public highway in accordance with details to be previously submitted to and approved in writing by the Borough Council. The driveways/parking areas shall thereafter be retained available for parking at all times for the lifetime of the development.

[To ensure that sufficient off street parking is provided and retained in the interests of highway safety, and to comply with policy 1 (Development requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies]

8. The development shall not proceed above foundation level until a detailed landscaping scheme for the site has been submitted to and approved in writing by the Borough Council. The approved scheme shall be carried out in the first tree planting season following the substantial completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species,

unless the Borough Council gives written consent to any variation.

[In the interests of amenity and to comply with policy 10 (Design and enhancing local identity) of the Rushcliffe Local Plan Part 1: Core strategy, and policy 1 (Development requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies]

9. None of the dwellings hereby permitted shall be occupied until bird/nesting boxes have been installed into the construction of the development in accordance with details to be previously submitted to and approved in writing by the Borough Council. Thereafter the bird/nesting boxes shall be retained for the lifetime of the development.

[To ensure the incorporation of features that benefit biodiversity, and to comply with 38 (Non designated biodiversity assets and the wider ecological network) of the Rushcliffe Local Plan Part 2: Land and Planning Policies]

10. Plot 1 shall not be occupied until the ground floor side elevation kitchen window and the first & second floor side elevation en-suite windows have been installed with obscure glazing to group 5 level or privacy or equivalent and mechanisms to restrict the openings to no more than 10cm, and the windows shall be retained to these specifications for the lifetime of the development.

[To safeguard the reasonable residential amenities of adjoining properties and to comply with policy 1 (Development requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies]

11. Notwithstanding the provisions of Schedule 2, Part 1 Class A - C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) there shall be no enlargement or alteration of the proposed dwellings at Plots 1 and 4 including no alteration to or insertion of windows other than those shown on the plans, without the prior written approval of the Borough Council.

[To safeguard the reasonable residential amenities of adjoining properties and to comply with policy 1 (Development requirements) of the Rushcliffe Local Plan Part 2: Land and Planning Policies]

## **Notes to Applicant**

This Authority is charging for the discharge of conditions in accordance with revised fee regulations which came into force on 6 April 2008. Application forms to discharge conditions can be found on the Rushcliffe Borough Council website.

Please be advised that all applications approved on or after the 7th October 2019 may be subject to the Community Infrastructure Levy (CIL). The Borough Council considers that the approved development is CIL chargeable. Full details of the amount payable, the process and timescales for payment, and any potential exemptions/relief that may be applicable will be set out in a Liability Notice to be issued following this decision. Further information about CIL can be found on the Borough Council's website at <https://www.rushcliffe.gov.uk/planningandgrowth/cil/>.

This permission does not give any legal right for any work on, over or under land or buildings outside the application site ownership or affecting neighbouring property,

including buildings, walls, fences and vegetation within that property. If any such work is anticipated, the consent of the adjoining land owner must first be obtained. The responsibility for meeting any claims for damage to such features lies with the applicant.

This grant of planning permission does not alter the private legal situation with regard to the carrying out of any works involving land which you do not own or control. You will need the consent of the owner(s) involved before any such works are started.

The provisions of the Party Wall Act 1996 may apply in relation to the boundary with the neighbouring property. A Solicitor or Chartered Surveyor may be able to give advice as to whether the proposed work falls within the scope of this Act and the necessary measures to be taken.

You are advised to ensure disturbance to neighbours is kept to a minimum during construction by restricting working hours to Monday to Friday 7.00am to 7.00pm, Saturday 8.00am to 5.00pm and by not working on Sundays or Bank Holidays. If you intend to work outside these hours you are requested to contact the Environmental Health Officer on 0115 9148322.

The Borough Council is charging developers for the first time provision of wheeled refuse containers for household and recycling wastes. Only containers supplied by Rushcliffe Borough Council will be emptied, refuse containers will need to be provided prior to the occupation of any dwellings. Please contact the Borough Council (Tel: 0115 981 9911) and ask for the Recycling Officer to arrange for payment and delivery of the bins.

It is possible that the roofspace, and/or behind the soffit, fascia boards, etc. may be used by bats. You are reminded that bats, their roosts and access to roosts are protected and it is an offence under the Countryside and Wildlife Act 1981 to interfere with them. If evidence of bats is found, you should stop work and contact Natural England on 0300 060 3900 or by email at [enquiries@naturalengland.org.uk](mailto:enquiries@naturalengland.org.uk).

Dropped kerb vehicular crossings in front of each vehicular access, with any redundant crossings reinstated to footway will need to be provided before any of the dwellings are occupied. If any street furniture needs to be relocated, this will be at the applicant's expense. You should contact Nottinghamshire County Council on 08449 808080 to arrange for these works to be carried out.