



**Ashfield**  
DISTRICT COUNCIL  
**MAP SCALE 1: 1250**  
**CREATED DATE: 26/08/2022**

**COMMITTEE DATE**    01/02/2023                      **WARD**            Underwood

**APP REF**                      V/2022/0396

**APPLICANT**                Jason Sharp

**PROPOSAL**                 One Dwelling

**LOCATION**                    28, Main Road, Underwood, Notts, NG16 5GF

**Web Link**                    <https://www.google.co.uk/maps/place/28+Main+Rd,+Underwood,+Nottingham+NG16+5GF/@53.0499915,-1.2985032,19.54z/data=!4m5!3m4!1s0x487994a5f51c9ce1:0xf9873240e80788ec!8m2!3d53.0497243!4d-1.2980209>

**BACKGROUND PAPERS**    A, B, C, D, E, F

App Registered 19/05/2022

Expiry Date 13/07/2022

*Consideration has been given to the Equalities Act 2010 in processing this application.*

*This application has been referred to Planning Committee by Councillor Martin on the grounds of overdevelopment and access/egress.*

### **Background**

This application was brought before the planning committee in September of 2022, where members requested that the application be deferred, to enable officers to seek an amended/reduced scheme.

The original scheme comprised a two-storey dwelling, which would occupy land formerly serving as domestic garden to No. 28 Main Road. Following the deferral of the application, a revised scheme has been submitted for consideration. It should be noted that in the interim an application has been received in respect of No. 26 Main Road. Regard should therefore be had to the comprehensive development of the site. This matter is assessed in more detail below.

In respect of the submission scheme, officer's recommendation for refusal was predicated on two reasons. For completeness, these are set out in full below:

1. The proposed development, by reason of its cramped and contrived layout would represent an overdevelopment of the site, which would have a detrimental impact on visual amenity and the character of the area. The proposal is therefore

contrary to Policy HG5(g) of the Ashfield Local Plan Review (2002), Chapter 12 of the NPPF and Policy NP2 of the JUS-t Neighbourhood Plan 2017-2032.

2. The proposed development, by reason of its size, scale and siting, would result in an unacceptable loss of light, privacy and outlook to neighbouring properties and would represent an oppressive form of development. The proposal is therefore contrary to Policy HG5 of the Ashfield Local Plan Review (2002), Chapter 12 of the NPPF and the guidance contained in the Council's Residential Design Guide SPD (2014).

### **Visual Amenity and Comprehensive Development**

The revised scheme comprises a single storey bungalow, which occupies a broadly central position within its plot.

It is a common principle that every applicant is entitled to have their application determined in the light of its own facts. However, regard should also be had to criterion (d) of Policy ST1 (ALPR) (2002), which sets out that development will be permitted where it will not prejudice the comprehensive development of an area. Paragraph 2.32 of the policy subtext sets out that some developments, due to their relationship between the site and adjacent land, may prove to be unacceptable as their implementation in isolation could adversely affect the more comprehensive development of an area of land at a later date. In such circumstances developers will be encouraged to contact landowners to seek a comprehensive solution (emphasis added). In this instance, two applications are running concurrently, which would result in the redevelopment of the wider site (to the rear of both Nos. 26 & 28).

A grant of planning permission (in respect of both applications) would result in 4 dwellings on a parcel of land which extends to approximately 0.157 hectares. The introduction of backland development in this area would result in a cramped and contrived form of development; it would occupy land close to other built forms, creating a poor spatial relationship. Although there is little unification amongst the development in the area, one common characteristic is the presence of spacious garden areas. These open spaces serve as a visual interruption in the built form, and therefore contribute positively to the character and appearance of the area. The erosion of such spaces would fail to respect the existing pattern and grain of development and would detract from the spacious nature of the area. Within this context, the proposed dwelling would appear as incongruous, whilst being visible from the public realm and in views from surrounding properties. The development as proposed would reduce the size of the gardens of both Nos. 26 and 28 Main Road, thereby eroding the character of the area.

Members should note that whilst this piecemeal approach would cause unacceptable harm to the character and appearance of the area, there is some scope for the redevelopment of the wider site (extending to the adjacent application site). However, it is not possible to evolve a scheme in this way under the current

application(s). The most recent iteration of the NPPF places greater emphasis on design, with paragraph 134 setting out that planning permission should be refused for development of poor design, especially where it fails to reflect local design policies and government guidance on design. Plainly, a grant of planning permission would prejudice a more appropriate redevelopment of the site, which might otherwise safeguard the visual amenity of the area.

The proposed development, by reason of its cramped and contrived layout would represent an overdevelopment of the site, which would have a detrimental impact on visual amenity and the character of the area. An express grant of planning permission would prejudice the comprehensive development of the wider site; the cumulative impacts would erode the character and appearance of the area. For the reasons set out above, the proposal is therefore contrary to criterion (g) of Policy HG5 (ALPR 2002), criteria (a), (b) and (d) of Policy ST1(d) of the Ashfield Local Plan Review (2002), the broad aims of Chapter 12 of the NPPF and Policy NP2 of the JUS-t Neighbourhood Plan 2017-2032.

### **Residential Amenity**

The revised scheme comprises a notable reduction in size, scale and mass. As a result, the proposal would no longer breach the 25\* degree rule which is used to provide guidance in respect of the impact on daylight and/or privacy to neighbouring occupiers (particularly No. 28 Main Road).

By virtue of its single storey form, the proposal would no longer interfere with the solar panels on the roof slope of No. 41 Smeath Road. Interference with solar panels is a material planning consideration by reason of their role in addressing issues of climate change.

Paragraph 3.48 of the Council's Residential Design Guide SPD (2014) sets out that homes should provide a comfortable, safe and private space which can be enjoyed by the occupants. In order to ensure this can be achieved, minimum separation distances should be applied having regard to site conditions and context. Officers note a ground floor side elevation window in No. 30 Main Road. Notwithstanding this, regard should be had to the scale of development (i.e., a bungalow) within its context, together with the presence of high boundary treatments. Taken together, these would offer mitigation from any harm that might arise.

No window openings are proposed in the side elevation closest to No. 28 Main Road, which might otherwise afford harmful views or a loss of privacy. Through a reduction in scale, the proposal would no longer represent an oppressive form of development when viewed from the amenity space of No. 28 Main Road.

The above measures therefore safeguard the standards of amenity for existing and future users, in accordance with paragraph 130(f) of the NPPF.

For the reasons set out above, the proposal would comply with criteria (a), (b) and (c) of Policy HG5 (ALPR) (2002), paragraph 130(f) of the NPPF and the relevant guidance set out in the Council's Residential Design Guide SPD (2014).

### **Conclusion**

Notwithstanding the reduced scheme and the overall improvement that it represents, the concurrent applications would prejudice the comprehensive development of the site, eroding the character and appearance of the area.

The revised reason for refusal reads as below:

### **Recommendation: - Refuse planning permission**

1. The proposed development, by reason of its cramped and contrived layout would represent an overdevelopment of the site, which would have a detrimental impact on visual amenity and the character of the area. An express grant of planning permission would prejudice the comprehensive development of the wider site; the cumulative impacts would erode the character and appearance of the area. The proposal is therefore contrary to Policy HG5(g) of the Ashfield Local Plan Review (2002), Policy ST1(d) of the Ashfield Local Plan Review (2002), Chapter 12 of the NPPF and Policy NP2 of the JUS-t Neighbourhood Plan 2017-2032.

**COMMITTEE DATE** 14/09/2022                      **WARD** Underwood

**APP REF** V/2022/0396

**APPLICANT** Jason Sharp

**PROPOSAL** Proposed 4 Bedroom Dwelling

**LOCATION** 28, Main Road, Underwood, Notts, NG16 5GF

**Web Link** <https://www.google.co.uk/maps/place/28+Main+Rd,+Underwood,+Nottingham+NG16+5GF/@53.0499915,-1.2985032,19.54z/data=!4m5!3m4!1s0x487994a5f51c9ce1:0xf9873240e80788ec!8m2!3d53.0497243!4d-1.2980209>

**BACKGROUND PAPERS** A, B, C, D, E, F

**App Registered** 19/05/2022

**Expiry Date** 13/07/2022

**Consideration has been given to the Equalities Act 2010 in processing this application.**

**This application has been referred to Planning Committee by Councillor Martin on the grounds of overdevelopment and access/egress.**

**The Application**

*Planning permission is sought for the erection of 1 dwelling which would comprise 4 bedrooms and an integral garage.*

**Consultations**

*Site Notices have been posted together with individual notification of surrounding residents.*

**Severn Trent Water**

*No objection subject to conditions in respect of surface water the inclusion of suggested informatives.*

**Nottinghamshire County Council Highways**

*No objection to the proposal and request conditions in respect of surfacing of the driveway, pedestrian visibility splays and no discharge of water to the highway.*

**Nottinghamshire County Council Rights of Way**

*Selston Footpath 55 runs to the northwest boundary of the site. No objections.*

## **Ashfield District Council – Contaminated Land**

*Due to the presence of a former landfill to the south, a condition requiring gas protection measures are carried out in the construction*

### **Resident Comments**

#### **15 letters of objection have been received raising the following:**

- *The two-storey form of the proposal is not in keeping with the bungalows on Main Road.*
- *The proposed dwelling is very close to the plot boundaries and will feel overbearing to neighbouring properties.*
- *Concerns in relation to a loss of privacy in respect of No. 41 Smeath Road, through conflicting windows. Recommended that there should be 22m between on-looking windows.*
- *If approved, the proposal may encourage further development in an area where services have been diminished.*
- *Concerns over the submitted plans as they lack dimensions.*
- *Design of the proposal appears to be at odds with the surrounding properties, both in its structure and its aesthetics.*
- *A two storey dwelling would overshadow the surrounding bungalows and dominate views.*
- *Two properties sharing a single drive could result in numerous vehicles exiting onto Main Road; the cumulative impact could pose an accident risk.*
- *The adjacent footpath would be adversely affected by a loss of light; this would result in it being more intimidating and difficult for the older generation to negotiate. It could also be hazardous to traverse the footpath at the junction with Wheeler Gate due to the lack of vision.*
- *Concerns that the footpath could be used for anti-social behaviour as a result.*
- *Concerns over the size of the private amenity space both in respect of the proposed dwelling and that of No. 28 Main Road.*
- *A dwelling of this size would further increase the traffic at the junction from Smeath Road to Main Road and would impact the safety of road users, pedestrians, and children from the local primary school.*
- *Whilst building works take place there would be health and safety issues in relation to the access to the property.*
- *Impact on the functioning of the post office, shop and business(es) opposite the site which all require on-street parking.*
- *Proposal will impact light levels to the garden and sitting room of No. 41 Smeath Road.*
- *The rear bedroom windows of the proposed dwelling would look directly into the bedroom and front room of No. 6 Smeath Road.*
- *A four-bedroom house with an attached garage would be out of character and also out of any sort of building line with the existing properties.*
- *The land available lends itself to housing but a bungalow would be more appropriate.*

- *A house in this location would overcrowd what is already a crowded residential area.*

### **Policy**

*Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:*

#### ***Ashfield Local Plan Review (ALPR) (2002)***

***ST1 – Development***

***ST3 – Named Settlements***

***HG5 – New Residential Development***

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

***Chapter 2 – Achieving Sustainable Development***

***Chapter 5 – Delivering a Sufficient Supply of Homes***

***Chapter 9 – Promoting Sustainable Transport***

***Chapter 11 – Making Effective Use of Land***

***Chapter 12 – Achieving Well-Designed Places***

#### ***JUS-t Neighbourhood Plan 2017 – 2032***

***NP1 – Sustainable Development***

***NP2 – Design Principles***

***NP4 – Housing Types***

#### ***Supplementary Planning Documents:***

***Residential Design Guide (2014)***

***Residential Car Parking Standards (2014)***

### **Relevant Planning History**

***V/1986/0412 – Retention of retail use in existing shop and small-scale manufacture of garments in ground floor living accommodation. Conditional Consent. 31/07/1986.***

*Officers are aware of other planning history within the locality, which is considered relevant to the determination of this application:*

***V/1987/0591 – Site for one bungalow. Refusal. 29/10/1987.***

***V/2021/0884 – 2 no. semi-detached bungalows. Refusal. 10/02/2022.***

***V/2022/0188 – Detached 3-bedroom bungalow. Refusal. 17/06/2022.***

### **Material Considerations**



- *Visual Amenity*
- *Residential Amenity*
- *Highway Safety & Parking*
- *Housing Land Supply*

### **The Site**

*The application site comprises a parcel of land to the north of 28 Main Road, Underwood.*

*The site formerly served as domestic garden (to No. 28), though has since been segregated through various hard landscaping methods. Access is proposed via a shared driveway with No. 28 onto Main Road.*

### **The Principle of Development**

*Section 70(2) of the Town and Country Planning Act 1990, sets out that in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations.*

*Further, Section 38(6) of the Planning and Compulsory Purchase Act 2004, states that if regard is to be had to the development plan for the purpose of any determination, then that determination must be made in accordance with the plan unless material considerations indicate otherwise.*

*The application site is located within the named settlement of Underwood, where limited development will be permitted, in accordance with Policy ST3 of the Ashfield Local Plan Review (ALPR) (2002).*

*Due regard is also had to Policy ST1 (ALPR) (2002) which states that development will be permitted where it will not conflict with other policies in the Local Plan.*

### **Visual Amenity**

*Policy HG5 (ALPR) (2002) has regard to the acceptability of new residential development, setting out that development should not adversely affect the visual amenity of the locality.*

*Paragraph 130(a) of the NPPF sets out that development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. Paragraph 130(b) requires development to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping.*

*Turning to the proposed layout and arrangement, Policy NP2 of the JUS-t Neighbourhood Plan 2017-2032 sets out that development should respect local character. As regards Underwood, development should reflect the settlement pattern with streets and blocks arranged to follow the contours. The northern side of Main Road consists of ribbon development, where generally, the frontage of each dwelling is visible from the roadway. The proposal departs from this prevailing pattern of development and seeks the erection of a dwelling within a garden area, to the rear of No. 28 Main Road. This configuration could be described as backland development.*

*In applying Policy NP2 (JUS-t Neighbourhood Plan 2017-2032), regard should also be had to Appendix E of the Neighbourhood Plan, which provides place analysis in respect of Underwood. The key findings and recommendations state that, “although a range of building types and scales are present, the predominant form is two storey, with buildings arranged in semis or short terraces. Bungalows can also be found. New development should use a similar approach and should seek to replicate the key features at the building level to reflect local distinctiveness” (emphasis added). The proposal, by reason of its form, would be in stark contrast to the bungalows which front Main Road (Nos. 26 – 32).*

*The site itself is located within a predominantly residential area and is bound to the north by Footpath 55. Notwithstanding this, the proposal would appear prominent in views north from Main Road and in views west from Smeath Road due to its relative scale and bulk. These views would appear yet more intrusive to users of Footpath 55 (including residents of Wheeler’s Gate), due to the lack of screening. The unacceptable prominence of the dwelling is derived, at least in part, from its size and scale, with a height to ridge of approximately 8.13m. This represents a discernible increase over and above the neighbouring bungalows, and indeed the nearby two storey dwellings which measure approximately 7.67m in height.*

*The prominence of the proposal is compounded by virtue of the inappropriate tandem development. Given its siting in close proximity to the plot boundaries, it is clear that the site is unable to comfortably accommodate development of this scale. Further, the locality is characterised by modest dwellings which benefit from relatively spacious gardens. These open spaces serve as a visual interruption in the built form, and therefore contribute positively to the character and appearance of the area. The erosion of such spaces would fail to respect the existing pattern and grain of development and would detract from the spacious nature of the street. In this regard, the proposal would cause significant harm to the character and appearance of the area and would manifest as an overdevelopment of the site, contrary to the aims of Policy HG5(g).*

*For the reasons set out above, the development is considered to have an adverse effect on visual amenity and is therefore contrary to criterion (g) of Policy HG5 (ALPR 2002), the broad aims of Chapter 12 of the NPPF and Policy NP2 of the JUS-t Neighbourhood Plan 2017-2032.*

### **Residential Amenity**

*Retained Policy HG5 (ALPR) (2002) seeks to ensure that new residential development does not adversely affect the residential amenity of neighbouring properties. This aligns with the thrust of the Council's Residential Design Guide SPD (2014).*

*The application site is encircled by residential development; Smeath Road to the north and east, Main Road to the south and southeast and Albert Terrace to the west.*

*Paragraph 3.48 of the Council's Residential Design Guide SPD (2014) sets out that homes should provide a comfortable, safe and private space which can be enjoyed by the occupants. In order to ensure this can be achieved minimum separation distances should be applied having regard to site conditions and context. Officers note a ground floor side elevation window in No. 30 Main Road. Given the angle between this habitable room and "Bedroom 4" of the proposed dwelling the proposal would fall short of the minimum distances set out within the SPD guidance.*

*By reason of its cramped and contrived layout, the proposed dwelling would impose itself upon the neighbouring properties; sited approximately 5m from No. 28 Main Road, approximately 10m from No. 41 Smeath Road and approximately 12m from No. 30 Main Road.*

*The proposal would breach the 25 degree rule which is used to provide guidance in respect of the impact on daylight and/or privacy to neighbouring occupiers (particularly No. 28 Main Road).*

*Officers are also aware that No. 41 Smeath Road has solar panels installed on its west-facing roofslope. As previously mentioned, the proposal would be in close proximity to No. 41 and would have a greater overall height. Interference with solar panels is a material planning consideration by reason of their role in addressing issues of climate change. In order to establish that no such interference would take place, more information on the exact relationship between the properties would be required.*

*Whilst no windows are proposed in the south elevation, there would be several openings in the north, east and west elevations. These openings would be in close proximity to the private gardens of Nos. 26 and 30 Main Road and No.41 Smeath Road. Whilst some degree of loss of privacy is to be expected in residential areas, these windows would be in such close proximity that they would infringe upon the enjoyment of these garden spaces.*

*Taken together, these impacts undermine the standards of amenity for existing and future users, contrary to paragraph 130(f) of the NPPF.*

*For the reasons set out above, the proposal would be contrary to Policy HG5, the broad aims of Chapter 12 of the NPPF and the guidance contained in the Council's Residential Design Guide SPD (2014).*

### **Highways and Access**

*Retained Policy HG5(f) (ALPR) (2002) sets out that new residential development will be permitted where parking facilities are provided in accordance with Council standards. The Council's Residential Car Parking Standards (RCPS) SPD sets out the Council's requirement for parking provision to serve new residential developments within the District. This SPD forms a material consideration in determining planning applications for residential development.*

*Paragraph 110 of the NPPF sets out that safe and suitable access to the site should be achieved for all users. Paragraph 111 of the NPPF sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

*Having regard to Section 5 of the RCPS SPD (2014), where the dwelling has been designed as having 4 bedrooms, there is a requirement to provide 3 off-street parking spaces. The proposed drawing(s), submitted alongside this application, depict 2 driveway parking spaces and a further space afforded by the integral garage, which satisfies the requisite internal measurements (6m x 3.3m). As such, the development proposal provides adequate levels of off-street parking.*

*As part of the application process, Nottinghamshire County Council Highways were consulted and raised no objections as regards parking and access. They acknowledged that "parking provision is acceptable as is visibility on exit from the site [...] and that there is space to manoeuvre to enter and leave the site in a forward gear". Officers have not been provided with any material which might warrant a departure from the conclusions of the Highways Authority.*

*For these reasons, the development is considered to accord with criterion (f) of Policy HG5 (ALPR 2002), paragraphs 110 and 111 of the NPPF, and the Ashfield Residential Car Parking Standards SPD (2014), which together seek to provide sufficient off-street parking and safe access.*

### **Housing Land Supply**

*The Council cannot currently demonstrate a five-year supply of deliverable housing land. Accordingly, in line with paragraph 11(d) of the NPPF, the policies most important for determining the application are out of date. Planning permission should be granted unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.*

*Paragraph 219 of the NPPF (Annex 1: Implementation) sets out that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*

*Notwithstanding the tilted balance being engaged, the proposal would result in significant harm to the character and appearance of the area, together with unacceptable levels of harm to the occupiers of neighbouring properties.*

*To this effect, Policy HG5 is consistent with paragraph 130 of the NPPF. The levels of harm identified above should therefore be afforded substantial weight. In light of this, the adverse impacts of granting planning permission, namely the impact on visual amenity and the impact on residential amenity, would significantly and demonstrably outweigh the limited benefits associated with the development.*

### **Conclusion**

*The development proposal would not comply with the provisions of the development plan, when considered as a whole. As such, it is recommended that planning permission be refused.*

**Recommendation: - Refuse planning permission**

### **REASONS**

- 2. The proposed development, by reason of its cramped and contrived layout would represent an overdevelopment of the site, which would have a detrimental impact on visual amenity and the character of the area. The proposal is therefore contrary to Policy HG5(g) of the Ashfield Local Plan Review (2002), Chapter 12 of the NPPF and Policy NP2 of the JUS-t Neighbourhood Plan 2017-2032.*
- 3. The proposed development, by reason of its size, scale and siting, would result in an unacceptable loss of light, privacy and outlook to neighbouring properties and would represent an oppressive form of development. The proposal is therefore contrary to Policy HG5 of the Ashfield Local Plan Review (2002), Chapter 12 of the NPPF and the guidance contained in the Council's Residential Design Guide SPD (2014).*