

**Report to** Planning applications committee  
**Date** 12 September 2013  
**Report of** Head of planning services  
**Subject** 13/01122/O 76 St Clements Hill Norwich NR3 4BW

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**Item**  
**5(3)**

## SUMMARY

<b>Description:</b>	Development of land at rear of 76 St Clements Hill using existing shared drive access from Chamberlin Road for erection of 2 No. semi-detached single storey dwellings, each with detached single garages.
<b>Reason for consideration at Committee:</b>	Objection
<b>Recommendation:</b>	Approve
<b>Ward:</b>	Sewell
<b>Contact Officer:</b>	Jo Hobbs Planner 01603 212526
<b>Valid Date:</b>	31st July 2013
<b>Applicant:</b>	Mr John Rose
<b>Agent:</b>	Mr Richard Anderson-Dungar

## INTRODUCTION

### The Site

#### Location and Context

1. The site is located on St Clements Hill to the north of the city. The area is predominantly residential in character, although Sewell Park College is located on the east side of St Clements Hill, along with Sewell Park open space to the south of the school.
2. The site itself is located to the rear of 76 St Clements Hill. This application seeks to subdivide the garden, with access from an existing track from Chamberlin Road along the rear boundaries of 78, 80 and 82 St Clements Hill.
3. It is within the Sewell Conservation Area and the buildings at 76, 78, 80 and 82 St Clements Hill are all locally listed buildings. The site forms the rear garden of 76 St Clements Hill at present, with some evidence of vegetable gardens and some ornamental and fruit trees on the site.

#### Planning History

4. Two applications for the same development on the site have been withdrawn. The most recent being after councillors deferred the decision on the application at committee on 17 January 2013. The reason for the deferral was that an ecology survey was requested to fully assess the application.

**12/00133/O** - Outline planning application for the development of land at rear of 76 St Clements Hill with access from Chamberlin Road for 2 No. semi-detached single storey dwellings with detached garages.

**12/02041/O** - Outline planning application for the development of land at rear of 76 St Clements Hill with access from Chamberlin Road for 2 No. semi detached single storey dwellings with detached single garages.

## **Equality and Diversity Issues**

5. There are no significant equality or diversity issues.

## **The Proposal**

6. The application is an outline application for the development of the rear garden of 76 St Clements Hill with two semi-detached dwellings. Access to these dwellings would be from Chamberlin Road.
7. The application has provided details of access, appearance, layout and scale, with landscaping as a reserved matter.

## **Representations Received**

8. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. 1 letter of support and 20 letters of objection have been received citing the issues as summarised in the table below.

9. Letter of support

<b>Issues Raised</b>	<b>Response</b>
Site is currently an eyesore, development welcomed	Noted
Pests are living on the site and moving to neighbouring gardens	Noted

10. Letters of objection

<b>Issues Raised</b>	<b>Response – see paragraph(s)</b>
Principle of development	13-18
Loss of garden land	13-18
Setting a precedence	56
Development is not sustainable development	14
Impact on conservation area	28-34
Out of scale development and poor design	28-34
Impact on biodiversity concerns over survey	46-50
Legal challenge in relation to right of access	This is a separate matter to the application and is not a material consideration for the planning application.
Development would not meet housing need or provide dwellings that are affordable to most	57

Noise disturbance	21
Privacy	21-23, 26
Loss of light and overshadowing	25
Pollution from cars	45
Concern over construction disturbance	21
Loss of view	There is no right to a view under planning law.
Loss of security and increased crime	32
Landscaping details unacceptable	33-34
Impact on drains and sewers around site	58
Loss of and lack of parking (increased insurance costs from removal of off-road parking)	35-40
Highway safety (also in relation to school children)	35-40
Increased maintenance costs for access track	59
Structural damage to dwellings on Chamberlain Road	60
Water for new dwellings	43
Loss of trees	51-53
Reference to previous bungalow on site incorrect	61
CIL Liability	53-54
Ownership of access track	The applicant has confirmed they have ownership rights to the land and served notice on other parties with interests in the land.
Applications with significant opposition should be refused	It is a legal requirement to consider all planning application for acceptability in terms of the adopted development plan.
Views of political parties in Norfolk	As above.
Exemption from change of use of offices to residential identified sufficient land for new housing.	18
Insufficient information submitted by application	Sufficient information was received to legally validate and consider the application.
Financial benefits to council insignificant	53
Financial advantage from conservation funding sources	55

## Consultation Responses

11. Natural Areas Officer – no objection provided mitigation measures are followed.
12. Local Highway Authority – no additional comments to previous applications (previously no objection).

# **ASSESSMENT OF PLANNING CONSIDERATIONS**

## **Relevant Planning Policies**

### **National Planning Policy Framework:**

Statement 4 – Promoting sustainable transport

Statement 6 – Delivering a wide choice of high quality homes

Statement 7 – Requiring good design

Statement 10 – Meeting the challenge of climate change, flooding and coastal change

Statement 11 – Conserving and enhancing the natural environment

Statement 12 - Conserving and enhancing the historic environment

### **Relevant policies of the adopted Joint Core Strategy for Broadland, Norwich and South Norfolk 2011**

Policy 1 – Addressing climate change and protecting environmental assets

Policy 2 – Promoting good design

Policy 3 – Energy and water

Policy 4 – Housing delivery

Policy 6 – Access and transportation

Policy 9 – Strategy for growth in the Norwich Policy Area

Policy 12 – Remainder of Norwich area

Policy 20 – Implementation

### **Relevant saved policies of the adopted City of Norwich Replacement Local Plan 2004**

NE8 – Management of features of wildlife importance and biodiversity

NE9 – Comprehensive landscaping scheme and tree planting

HBE8 – Development in conservation areas

HBE12 – High standard of design

EP16 – Water resource conservation

EP17 – Water quality re. treatment of runoff from car parks

EP18 – Energy efficiency in development

EP19 – Renewable energy in development

EP22 – Protection of residential amenity

HOU13 – Criteria for all other housing sites

TRA5 – Sustainable design to reduce car use to a minimum

TRA6 – Parking standards

TRA7 – Cycle parking provision

TRA8 – Provision in development for servicing

### **Supplementary Planning Documents and Guidance**

Trees and development SPD (2007)

Sewell Conservation Area Appraisal (2010)

### **Other Material Considerations**

The Localism Act 2011 – s143 Local Finance Considerations

Written Ministerial Statement: Planning for Growth March 2011

### **Procedural Matters Relating to the Development Plan and the NPPF**

The Joint Core Strategy and Replacement Local Plan (RLP) have been adopted since the introduction of the Planning and Compulsory Purchase Act in 2004. With regard to paragraphs 211 and 215-216 of the National Planning Policy Framework (NPPF),

both sets of policies have been subjected to a test of compliance with the NPPF. Both the 2011 JCS policies and the 2004 RLP policies above are considered to be compliant with the NPPF. The Council has also reached submission stage of the emerging new Local Plan policies, and considers most of these to be wholly consistent with the NPPF. Where discrepancies or inconsistent policies relate to this application they are identified and discussed within the report; varying degrees of weight are apportioned as appropriate.

### **Emerging DM Policies**

(Please note that these policies were submitted to the Planning Inspectorate on 17<sup>th</sup> April 2013. After this time some weight can be applied to these policies. Some policies subject to objections have not been included in this list as these issues are unlikely to be resolved within the time frame of the application, and therefore should not be given much weight.)

**DM1** - Achieving and delivering sustainable development

**DM2** - Ensuring satisfactory living and working conditions

**DM3** - Delivering high quality design

**DM4** - Providing for renewable and low carbon energy

**DM6** - Protecting and enhancing the natural environment

**DM7** - Trees and development

**DM9** - Safeguarding Norwich's heritage

**DM12** - Ensuring well-planned housing development

**DM28** - Encouraging sustainable travel

**DM30** - Access and highway safety

**DM31** - Car parking and servicing

### **Policy Considerations**

13. The application is in outline, but as the site is in a conservation area and surrounding by existing residential development matters relating to access, appearance, layout and scale have been submitted. The only matter that has been left as a reserved matter is landscaping. Therefore the concerns relating to the quality of the landscaping scheme and the provision of fencing for privacy to neighbours would be dealt with as a reserved matter.
14. There is a presumption in favour of sustainable development within the National Planning Policy Framework. This requires development that accords with the development plan to be approved without delay. The acceptability of the proposed development in terms of the development plan is considered further in the report below.
15. The key considerations are the principle of residential development, design and impact on conservation area, impact on residential amenity (existing neighbours and occupants of proposed dwellings), impact on trees on site, provision of refuse storage, car parking and cycle parking and energy and water.
16. The new dwellings would be on land currently used as garden land for 76 St Clements Hill. The National Planning Policy Framework identifies such land to be greenfield land, which should preferably not be developed over brownfield land. In paragraph 55 of the NPPF however it is clearly stated that local planning authorities should set policies to protect garden land as they see fit. The council does not have such a policy and so an assessment must be made on the suitability of the site for housing through other principles set out in the NPPF and local policy.

17. The site however is in an accessible location, well within the urban area and in an area of existing housing. Therefore the principle of the development on the site is considered to be acceptable subject to meeting the requirements of other development plan policy.
18. Existing housing land supply has been raised in letters of objection. Although there is a 5 year land supply in Norwich, government policy is very clear in that there should be a positive view taken of new housing development that are in accord with national and local policies. There is a continuing need to find “windfall” sites of this nature to deliver the housing required over the longer term.
19. The considerations relating to design and amenity require due consideration however, as outlined below. The density of the scheme proposed is considered further under amenity.

## **Impact on Living Conditions**

20. There are two key areas relating to amenity – the amenity of existing residential occupants surrounding the site and the amenity of future occupiers of the proposed dwellings.

### **Existing neighbours**

21. The proposed dwellings would lead to a certain level of disturbance from noise and overlooking of people living in the dwellings and accessing the dwellings along the existing track. However given the fact that only two dwellings are proposed and the close proximity of a number of other residential uses in the surrounding area, the addition of two further households is not considered to lead to an unacceptable level of noise or loss of amenity. An informative note is recommended relating to construction traffic to reduce the impact to the neighbours during the construction phase.
22. The access to the dwelling would be along an existing vehicle access to the rear of dwellings at 78 and 80 St Clements Hill and the rear garden that forms the application site. This track was being used at the time of the site visit for these properties to access garages to the rear of their dwellings. The access track is adjacent to the side and rear facing windows of 6 Chamberlain Road. These windows are to more private rooms of the dwelling than the front room for example, by virtue of their location to the rear of the dwelling. Therefore consideration must be given to the additional overlooking these residents would receive.
23. However, given the existing access for 78 and 80 St Clements Hill there is already an existing level of overlooking received by the residents. On balance the additional overlooking from pedestrians and car users accessing the proposed dwellings would not be a sufficient increase in overlooking to merit refusal of the application. The benefit the scheme would bring of two additional dwellings must be weighed against the harm caused, but in this instance the harm is not considered to be sufficient to merit refusal of the whole application. The matter of landscaping has been reserved. It is recommended that this reserved matter include details of appropriate screening along the west boundary of this access path to mitigate this impact.
24. The proposal would lead to some built form which would be visible to surrounding residents. However the distance to this development in conjunction with the low

eaves would not lead to a loss of outlook that would be sufficient enough to merit refusal of this application. The single storey garage units would only be 0.8m higher than a 2m boundary fence which could be built under permitted development rights. The closest rear windows on Chamberlain Road would be over 13m away. The additional 0.8m height would therefore not be sufficiently close to merit refusal of the application on this ground. The highest point of the roof on the new dwelling at 5.8m would be over 25m away from the rear windows of Chamberlain Road. Again this built form would not be sufficiently close to merit refusal on the grounds of a loss of outlook, particularly given the fact the development is in the urban context of a city.

25. The orientation of the proposed buildings in conjunction with the distance to the nearest dwelling windows facing the site and presence of existing built form to the south of the site would lead to no significant loss of daylight or direct sunlight to main habitable rooms in the neighbouring dwellings. The structure adjacent to boundary fences may lead to some overshadowing of neighbouring garden land, but the structures would only be 0.8m above a standard sized boundary fence as identified above. It is therefore difficult to justify refusal of this scheme on this basis.
26. The dwellings would have all windows at ground floor as they are proposed to be single storey dwellings. This would not lead to sufficient overlooking to merit refusal of the application given that the proposed dwellings are around 20m from neighbouring windows. The roof space is however quite tall which could lead to a mezzanine floor being installed, particularly as there are rooflights shown. To ensure the privacy of residents to the north of the site a condition is required that any window below 1.7m from the finished floor level to be fixed shut and obscure glazed. This would ensure the privacy to the rear of dwellings along Chamberlain Road.

### **Future occupants**

27. The proposed dwellings provide outdoor amenity space to a standard that would be acceptable. Matters relating to refuse, car parking and cycle storage are considered below, but the outdoor amenity space provided is considered to be of sufficient size and has an adequate level of privacy to be acceptable.

## **Design**

### **Layout, scale and form**

28. The design of the dwellings contrasts the architectural style of the existing buildings in the surrounding area. There are a mixture of design styles from the 1930s locally listed building fronting onto St Clements Hill to the mid 20<sup>th</sup> century terraced housing along Chamberlain Road and 21<sup>st</sup> century block of flats to the south west of the site, as identified in the Sewell Conservation Area Appraisal.
29. As the site is not highly visible from St Clements Hill or other parts of the conservation area identified in the above appraisal a more contemporary architectural style is considered to be acceptable on the site. There are some viewpoints through to this development however and the existing surrounding residents would have clear views to the site. The proposed dwellings would not be that close to locally listed buildings along St Clements Hill, and there are no statutory listed buildings in the vicinity of the site.
30. The development is considered to be a sympathetic addition to the existing site,

with an architectural style, scale and form that complements the existing surrounding development, historic locally listed building and surrounding conservation area through using a more contemporary style of development that maximises the use of materials that have a more natural appearance.

31. The overall design, scale, mass, form and choice of materials are therefore considered to be acceptable. Conditions are recommended for materials to be agreed.
32. The security of the site has been raised as an issue as the access road would not be gated. The addition of two dwellings has raised concerns that it would lead to increased intruders and crime on the site. The access road is already open enabling access. The addition of dwellings would increase surveillance compared to the current use as a rear garden and the likely potential is for crime to be reduced rather than increased.

### **Materials and landscaping**

33. The acceptability of the appearance of the proposed dwelling would rely on the choice of the final materials, landscaping details both planting and hard surfaces. All hard surfaces should be permeable to reduce surface water runoff.
34. Conditions are recommended for the external facing materials and boundary treatments to be agreed. Landscaping is to be agreed as a reserved matter under a separate application.

## **Transport and Access**

### **Highway safety**

35. The impact of two additional dwellings and associated cars accessing Chamberlain Road has been considered. The domestic nature of the use would lead to relatively low frequency of use of the driveway, which would not be sufficient to merit refusal of the application on this ground.
36. There would be a very small amount of additional parking pressure on Chamberlain Road from this new development, as parking is provided on the site. Future residents are unlikely to park their cars on Chamberlain Road out of sight from their dwelling when they have a space outside their dwelling. Also the small area of parking on the current access track used for parking by neighbours. There is space for 1-2 cars on the access track, which if displaced onto the highway would not lead to a significantly increased number of cars parking on the highway to merit refusal of the application on parking grounds.
37. Access from St Clements Hill instead has been suggested in a letter of representation. The issue with access onto this road would be firstly a greater impact on the appearance of the conservation area and secondly St Clements Hill being a more trafficked road. The proposed access onto Chamberlain Road is therefore considered the more suitable access in planning terms.
38. The safety of this junction being used has been considered. The access track has a pavement either side which provides visibility for motorists when entering the highway. The track is already used by residents who have garages or parking areas to the rear of dwellings on St Clements Hill. Chamberlain Road is a residential road and so it would be unreasonable to refuse the application on the basis of two new



residential accesses onto the road.

39. The increased insurance costs from removal of off-road parking have also been raised. If a land owner has enabled parking on their land and then removes the right there is no control under planning legislation to prevent this. The access to the site may have been used as parking, but this was only at the discretion of the land owner.
40. Therefore there is not considered to be a sufficiently adverse impact on access or highway safety to Chamberlain Road to merit refusal of the application on this ground.

### **Vehicular Access and Servicing**

41. Refuse bins have been provided to the required number and have ample space for storage within the site. The bins would need to be collected from the highway on Chamberlain Road which would involve residents moving the bins to this location. This could block the access road and lead to noise that would disturb adjacent residents but due to the low frequency of this once a week this would not lead to a sufficient enough issue to merit refusal of the application.
42. There is space for car parking on the site and garages are provided that would enable secure and covered cycle storage. These requirements are therefore considered to be met. A condition is recommended to ensure these are provided on site prior to first occupation.

## **Environmental Issues**

### **Water and energy**

43. Under local policy the only requirement would be for the new dwellings to meet Code for Sustainable Homes Level 4 for water, which is water usage of only 105 litres per person per day. This could be conditioned to any approval. The purpose of this policy is to ensure there is sufficient water for all new dwellings. This issue has been considered at a strategic level by the Joint Core Strategy. Sufficient water supplies were identified subject to this water usage being conditioned for all new dwellings.
44. As the proposal is only for two dwellings there is no policy requirement for renewable energy to be provided on site.

### **Air quality**

45. The emissions from cars accessing the new dwellings have been raised in letters of representation. The number of cars resulting from two new dwellings would not be sufficient enough to lead to air quality concerns. There are also existing garages along the access road into the site where current residents could run engines. The number of dwellings and space in between the dwellings however would not lead to a sufficiently adverse impact that would merit refusal of the application.

### **Biodiversity**

46. The site was formerly garden land which was been used for vegetable growing with the remaining area mown grass. A protected species survey has been carried out. The survey found no evidence of significant habitat that protected species rely on. Any protected species seen on the site are likely to be in transit and not relying on the site for habitat.

47. There are also a number of surrounding dwellings with good sized gardens, with the proposed development only occupying part of this existing corridor of natural environment. The surrounding gardens, however unlikely, could suffer a loss in habitat at any time through occupants removing vegetation and replacing with other structures such as patios or decking. As garden land is in private ownership it is difficult to prevent people from removing plants and habitat that support wildlife. In this instance however there is no habitat within the garden that protected species solely rely on, and appropriate mitigation measures can be taken.
48. To mitigate against possible loss of habitat and enhance the biodiversity of the site a number of conditions are recommended, including replacement planting to encourage bees and insects, fencing with holes in the base to allow hedgehogs and amphibians to move through the site and careful site clearance to take account of different species that could be using the site.
49. It is therefore not considered reasonable to refuse the application on the grounds of impact on biodiversity given the absence of habitat that protected species rely on.
50. Concerns have been raised over the time of year the survey was completed and that it was cold in April. The survey does not just look for protected species, it considers the potential for habitat to be present which if lost would be detrimental to the protected species. As no habitat was found that protected species rely on it is not considered reasonable to refuse the application on this ground.

## Trees and Landscaping

### Loss of Trees or Impact on Trees

51. An Arboricultural Implications Assessment has been submitted with the application to show the impact on the proposed trees. Two trees are identified to be affected by the proposed development. Tree T2 is proposed to be removed and replaced after completion of the development. This is a category C tree and so is not of sufficient value to merit its retention. A replacement tree is however recommended to be conditioned to replace this tree that is to be removed.
52. Conditions are also recommended for works to be in accordance with the AIA, siting of new services and protection of root protection areas during construction.

### Local Finance Considerations

53. Under Section 143 of the Localism Act the council is required to consider the impact on local finances. It is a material consideration when assessing this application. The benefits from the finance contributions for the council however must be weighed against the above planning issues however.

Financial Liability	Liable?	Amount
New Homes Bonus	Yes	Based on council tax band. Payment of one monthly council tax amount per year for six years.
Council Tax	Yes	Band not yet known
Community Infrastructure Levy	Yes	£13,575 (indexed)
Business Rates	No	-

54. Community Infrastructure Levy would be liable for the two dwellings as they are

new development.

55. In a letter of representation sources of funding for conservation have been identified. The impact of the development on the potential to receive these has been raised. The development would not be highly visible to the surrounding conservation area and the development is not that large in the context of the conservation area. It is therefore considered unlikely that this development would impede the ability to apply for future funding in relation to the conservation area.

### **Other matters raised in letters of representation**

56. The issue of precedence has been raised in a letter of representation. Each development must be assessed on its own merits and any subsequent applications for similar developments would have to be fully assessed for impact and harm. It is therefore not possible to refuse an application on setting a precedent, only the harm that an actual application would result in.
57. The affordability of the dwellings has been raised. Under the National Planning Policy Framework there is a presumption in favour of sustainable development, enabling new homes to be built where appropriate. The affordability of homes for sale on the private market is not a matter that planning can intervene in. The delivery of affordable housing by registered social landlords is a separate matter, but these dwellings are private dwellings and there is no requirement for affordable housing on a scheme of this size under joint core strategy policy 4. Therefore the affordability of these cannot be taken into consideration when determining the acceptability.
58. The impact on drains and sewers around the site would be a matter covered by separate consents. The area is an existing residential area and the application only proposes two new dwellings. The connection to drains and sewers would therefore be possible.
59. The maintenance of any private track or pipes off the highway under private land is a civil matter outside the remit of planning legislation.
60. The issue of structural damage caused during construction is also a civil matter which cannot be controlled by planning legislation. The new development would need to conform to the building regulations.
61. A reference has been made to a previous bungalow on the site. No evidence of this can be found in the historic records for the site. The application is however assessed on the basis that the site is currently garden land, as this is its previous established use.

### **Conclusions**

62. The proposed development would lead to additional residents, traffic, overlooking and development within the conservation area. However, the extent of harm that this new development must be considered and balanced against the benefits of delivering two new dwellings to Norwich and the direction of national policy to deliver new homes where possible. In this instance the harm of the new development has been considered but the impact on residential amenity is not sufficient enough to merit refusal of the application. The increased traffic to the development would be relatively minor and the impact on the key heritage assets of St Clements Hill reduced by the low visibility of the scheme from the main views within the conservation area.
63. It is therefore considered that the proposed two dwellings would not lead to

sufficient harm to merit refusal of this application.

## **RECOMMENDATIONS**

To approve Application No 12/02041/O at land to the rear of 76 St Clements Hill and grant planning permission, subject to the following conditions:-

1. Application for the approval of reserved matter to be made not later than 3 years from date of permission;
2. Commencement of development 2 years from the date of approval of the last reserved matter to be approved;
3. Matters to relate to landscaping – including mitigatory replacement planting;
4. Details of
  - external facing materials
  - boundary treatment
  - obscure glazing on rooflights
5. Car parking, cycle storage and bin stores provided prior to first occupation;
6. Compliance with AIA, AMS and Tree Protection Plan implemented prior to commencement;
7. Siting of new services
8. Enhancement measures for biodiversity followed
9. Site clearance outside of bird nesting season
10. Demolition of composting areas by hand and relocation of any amphibians found
11. Water efficiency

### Article 31(1)(cc) Statement

The local planning authority in making its decision has had due regard to paragraph 187 of the National Planning Policy Framework as well as the development plan, national planning policy and other material considerations and has approved the application subject to appropriate conditions and for the reasons outlined above.

### Informative notes:

1. Considerate construction
2. Tree protection barriers
3. Protected species licence



