

My Ref: 22/00314/PFUL3 (PP-11022271)
Your Ref:
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Date of decision: 7 April 2022

TOWN AND COUNTRY PLANNING ACT 1990 APPLICATION FOR PLANNING PERMISSION

Application No: 22/00314/PFUL3 (PP-11022271)
Application by: Mr Nishad Nijamali
Location: 4 Hill Side (363 Derby Road), Nottingham,
Proposal: First floor extensions to existing Large HMO (Use Class C4) to create 12 additional bedspaces and communal areas and reconfiguration of exiting cycle and car parking.

Nottingham City Council as Local Planning Authority hereby **REFUSES PLANNING PERMISSION** for the development described in the above application for the following reason(s):-

1. The proposed extensions would reinforce and exacerbate the existing over-intensive use of the site as a House in Multiple Occupation, located within an area of high student concentration where there is already significant community imbalance. The proposal is therefore contrary to the Council's aims of promoting balanced and sustainable communities as set out in Policy 8 of the ACS and Policies HO1 and HO6 of the LAPP.
2. The proposed extensions would compound and increase the over-intensive use of the property as a House in Multiple Occupation, located within a wider area of excessive student concentration. The proposal would therefore exacerbate the existing harm to the amenities of neighbours and the wider area in general. In addition, due to limited light ingress and lack of outlook from a number of bedrooms and communal living spaces, the proposed development would provide an unacceptable standard of accommodation for future occupants. The proposal therefore fails to accord with Policy 10 of the ACS and Policies DE1 and HO6 of the LAPP.
3. The design, scale, mass and location of the proposed extensions would be detrimental to the appearance of the host building and result in an over development of the site to the detriment of the streetscene and character of the wider area. The development would also be harmful to the historic setting and significance of the grade II* listed Lenton Lodge to the north. The degree of harm is considered to be less than substantial, for which the proposal lacks the public benefit required to outweigh such harm. The proposal is therefore contrary to Policies 10 and 11 of the ACS and Policies DE1, DE2 and HE1 of the LAPP.

Notes

Continued...



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Your attention is drawn to the rights of appeal set out on the attached sheet.



Paul Seddon
Director of Planning and Regeneration

Continued...



RIGHTS OF APPEAL

Application No: 22/00314/PFUL3 (PP-11022271)

If the applicant is aggrieved by the decision of the City Council to refuse permission for the proposed development, then he or she can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

Any appeal must be submitted within six months of the date of this notice. You can obtain an appeal form from the Customer Support Unit, The Planning Inspectorate, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Phone: 0117 372 6372. Appeal forms can also be downloaded from the Planning Inspectorate website at <http://www.planning-inspectorate.gov.uk/pins/index.htm>. Alternatively, the Planning Inspectorate have introduced an online appeals service which you can use to make your appeal online. You can find the service through the Appeals area of the Planning Portal - see www.planningportal.gov.uk/pes.

The Inspectorate will publish details of your appeal on the internet (on the Appeals area of the Planning Portal). This may include a copy of the original planning application form and relevant supporting documents supplied to the local authority by you or your agent, together with the completed appeal form and information you submit to the Planning Inspectorate. Please ensure that you only provide information, including personal information belonging to you that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.

The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay.

The Secretary of State need not consider an appeal if the City Council could not for legal reasons have granted permission or approved the proposals without the conditions it imposed.

In practice, the Secretary of State does not refuse to consider appeals solely because the City Council based its decision on a direction given by him.

PURCHASE NOTICES

If either the City Council or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. This procedure is set out in Part VI of the Town and Country Planning Act 1990.

COMPENSATION

In certain limited circumstances, a claim may be made against the City Council for compensation where permission is refused or granted subject to conditions by the Secretary of State. The circumstances in which compensation is payable are set out in Section 114 of the Town & Country Planning Act 1990.



DECISION NOTICE APPENDIX: DELEGATED REPORT

This report sets out the reason for the decision, taken by officers under the terms of the Council's Scheme of Delegations, and includes a summary of relevant planning policies.

LIST OF RELEVANT POLICIES

Nottingham Local Plan (November 2005):

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Aligned Core Strategies (ACS)

Policy 1: Climate Change - development proposals will be expected to mitigate against and adapt to climate change.

Policy 8: Housing Size, Mix and Choice.

Policy 10: Design and Enhancing Local Identity.

Policy 11: The Historic Environment - seeks to conserve and/or enhance the historic environment and heritage assets in line with their interest and significance.

Land and Planning Policies (LAPP)

Policy DE1: Building Design and Use

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

Policy HO1: Housing Mix

Policy HO6: Houses in Multiple Occupation (HMOs) and Purpose Built Student Accommodation

National Planning Policy Framework (2021)

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

Chapter 5 - Delivering a sufficient supply of homes

Paragraph 62 - Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes.

Chapter 15 - Conserving and enhancing the natural environment

Paragraph 185 - 'The effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development'.

'Avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development'.



Paragraph 202 - Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal

SUMMARY OF RESPONSES TO CONSULTATION

10 neighbouring properties consulted
Earliest date of determination 20/3/22

7 letters of representation received with comments as follows:

Cllr Trimble - Object:

Over a number of years this property has been increased in size several times from a family property into a very large residence incorporating a number of HMO's with a capacity of 18 individuals. The current application is to increase that number again to 30 people. Creating even more HMO usage when the purpose of having an Article 4 Direction is to manage this much better for local residents and the local community.

It has in my view already maximised to its limit, therefore this application to house another 12 people should be refused on the grounds of it being over intensification. I am also objecting to the creation of extra car parking spaces by removing most of what is left of the garden. Given the current need to protect and keep green space I would propose that all garden should be reinstated.

The area is already way over intensive in the number of HMO's particularly to the Derby Road side. Though the few houses on Hillside have by and large managed to resist the trend in terms of remaining as family homes. To encroach further on this would be significantly detrimental to the area.

Civic Society - Object:

Nottingham Civic Society objects to the first floor extensions to further enlarge the cluster house in multiple occupation. The development represents an over-intensification of building on the site. The original Victorian house would be completely subsumed into the large, bulky form of later extensions which spoil the appearance of the original building. The scheme represents unsustainable development where service facilities such as refuse storage and car parking are provided at the expense of outdoor amenity space for the residents. Too much accommodation is being proposed and the development should not be supported.

NAG - Object:

The application represents an increase in the number of HMOs in an area where the concentration of HMOs, regardless of whether the tenants are students or not, is already well above the 10% threshold at which the balance and sustainability of the local community is threatened.

The increase from four to six C4 HMOs, with the consequent increase from 18 to 30 bed spaces, is a significant intensification of use of the dwelling and its grounds.

The proposed first floor extension represents an unacceptable increase in massing with adverse impact on the street scene at this historically and architecturally sensitive junction between Hill Side and Derby Road, as well as on the character of the residential properties in the vicinity.

The application proposes an increase in car parking spaces from six to nine. This will not only be a significant addition to the number of traffic movements on Hillside (associated with QMC parking as well as traffic to and from the residential properties), but also to what is already a concentration of



confused and busy sets of junctions with Derby Road.

In addition, this proposal will also result in the remainder of the garden/grassed area of the property being lost, resulting in lost amenity for the tenants, and, for the neighbourhood, loss of potential as well as existing habitat.

The property is variously described as being a large (sui generis) HMO and four C4 (small) HMOs, with also at least more than an implication that what is intended is something akin to purpose built student accommodation. This is confusing and worrying in equal measure.

it is confusing as to how many people currently live there given the plans show 18 rooms but there are 3 existing HMO licences for a total of 20 residents.

The drastic pruning of the boundary hedge means that there will be no regeneration of these trees. In fact, neither the so-called hedge nor the post and wire fencing now provide any privacy or screening, and will not do so in the future.

The 4 other representations:

This development will significantly overlook and over shadow our property.

This property currently has serious waste management issues which would be made worse by increasing the number of occupants. There have been several complaints of fly tipping/littering and of verminous premises.

The current property capacity already causes a lot of noise and disturbances due to almost continuous takeaway deliveries, and overcrowded parking.

What was there before was a large building shielded by a high leylandi hedge. They have chopped away the hedge. The new proposal does not extend the footprint of the building but is a massive increase in size with no shielding whatsoever. It will also remove the grassed area. It is far too intensive for the site.

There are more than enough HMOs in this area. Infrastructure and amenities are stretched to capacity and will be even more so when the two student housing projects are up and running (Toyota site and Triumph Road). Well maintained and attractive buildings do much for Nottingham's reputation and these projects are good for the community.

For many years, the mentioned property has not been well maintained and does not enhance what is an established part of an entrance to the city. In fact, the boundary hedges have been until recently so overgrown with overhanging brambles that they have been dangerous to pedestrians.

A quick fix job has been carried out on the garden prior to this application and the surroundings will recede back into their former state and even worse if this application is approved. Good maintenance has not conducted.

Although work has been carried out to alleviate this problem, the garden has not been cleared and it is very messy. Large amounts of litter around the property are never cleared. These anti social conditions will be escalated when more people are housed in this property. The owner/s at present do not take responsibility for maintaining the building in keeping with the standards upheld by local residents and will unlikely do so in the future.

Hillside is of narrow entry with no through road. It is already hazardous for cyclists and pedestrians. Further vehicle use will exacerbate this.

Conservation Officer - Object:



363 Derby Road (aka 4 Hill Side) was originally a modest 19th century house standing in its own garden plot opposite Lenton Lodge and alongside an important crossing point over the Nottingham Canal and the River Leen. The original building was significantly enlarged with rear extensions in the late 20th century facilitating its re-use as a residential care home. The property is not currently included on the Nottingham Local List, but historic map evidence indicates that apart from the grade II* listed Lenton Lodge (situated on the opposite side of Derby Road) it is the oldest surviving building in the immediate vicinity. Given it has stood opposite Lenton Lodge for over a century it is considered to contribute positively to that building's historic setting and to the general character and distinctiveness of the locality.

Following the closure of the care home the building was re-purposed as student accommodation. The low stature of the large single storey extension currently mitigates its impact in views from Derby Road, allowing the original house and its earlier rear extensions to remain dominant. The works proposed by this application would add a first floor over this extension, significantly increasing its visual impact and detracting from the appreciation of the 19th century house in a way that does not respect the local character and distinctiveness of the area. By harming the appearance of the house the development would also be harmful to the historic setting and significance of the grade II* listed Lenton Lodge. Any harm to a heritage asset resulting from development within its setting requires clear and convincing justification and even though it would be 'less than substantial' the harm should be weighed against the public benefits of the proposals. An expansion of what is already an intensive use of the building for student accommodation is not considered to offer public benefits that would outweigh the harm to the significance of Lenton Lodge as a highly graded listed building.

For these reasons the application is considered to conflict with policy HE1 of the LAPP, policy 11 of the ACS and section 16 of the NPPF.

Environmental Health - No comments to make.

APPRAISAL

Site and Surroundings

The property is a two storey detached 19th century dwelling situated at the junction of Derby Road and Hill Side. Derby Road is a busy arterial route off the A52 and provides access to the city centre, QMC and University of Nottingham, including its Jubilee Campus which is situated to the north east of the site. Immediately opposite the site on the northern side of Derby Road is Lenton Lodge, an impressive II* listed building.

The building which forms the basis of this application has been unsympathetically extended in the 1990's with single storey additions to the north and south and older historic two storey addition to the west. The building is largely constructed of brick, with elements of render and a mix of pitched and hipped rooflines covered in slate. The site has had a variety of uses historically, notably as a nursing home, a hostel and in 2012 it was converted to its current use as a HMO, comprised of four cluster flats totalling 18 rooms. The supporting planning statement indicates that given the proximity of the university and the QMC the site is attractive to both students and staff at the QMC, although it is anticipated that the primary occupants would be students.

The site is accessed from Hill Side with informal parking currently available to the front (east) and bins largely stored on the southern boundary. The north eastern corner of the site is a grassed area for current occupants and the site is enclosed by a leylandii hedge which neighbours refer to as having recently been reduced unsympathetically in height, allowing views both into and out of the site from neighbouring roads. Hill Side is a cul de sac and provides pedestrian access to the QMC situated to the south. It is occupied by a handful of large, detached two storey dwellings which



appear to still be in family occupation.

The property to the south is 6 Hill Side which has a detached single storey garage running along the southern boundary of the application site and to the west 367 Derby Road is a detached building occupied by a cosmetic surgery studio with car park to the front and garden area to the rear.

History

12/01802/PFUL3 - Change of use from existing warden supervised student hostel to four class C4 Houses in Multiple Occupation (Cluster Flats) Residential Units with a total of 18 bedrooms. resubmission of application ref. 11/03307/PFUL3. Approved 2012

11/03307/PFUL3 - Conversion and extensions to existing hostel (C1) to create house in multiple occupation (C4) comprising of 6 units. Refused 2012

93/00535/PFUL3 - Change of use from Class C2 (Nursing Home) to Class C1 (Warden Supervised Student Hostel). Approved 1993

90/00646/PFUL3 - Retention of single storey extensions and alterations to form residential care home. Approved 1990

Proposal

Planning permission is sought for single storey extensions above existing ground floor additions with the description indicating the provision of 12 new bedrooms (4 with en suites). In addition, two new kitchen/dining areas are proposed and 2 further bathrooms. The 1st floor layout within the existing property would also be revised with the kitchen/dining area relocated and one bedroom lost, thus resulting in a total of 15 rooms at 1st floor level and 14 at ground floor, totalling 29 over 2 floors. Internal escape stairs are proposed at either end of the extensions which are proposed to be finished in render with hipped slate roofs. Existing parking to the front would be retained and the grassed area to the north utilised to provide parking for an additional 4 cars and a bike shed for 16 bikes, positioned along the eastern boundary.

Appraisal

i) Impact on the Creation and Maintenance of a Balanced Community (Policy 8 of the ACS, Policies HO1 and HO6 of the LAPP)

The applicant has not indicated the proposed end users of the extended property, however given its proximity to the University of Nottingham it is considered likely that they would be students. On this basis, the principle of the proposal needs to be considered against policy 8 of the ACS and policies HO1 and HO6 of the LAPP.

Policy HO6 of the LAPP states that permission will only be granted for, inter alia, extensions/alterations to existing HMOs, including development to facilitate an increase in the number of occupiers/bedspaces, where it would not conflict with policies HO1 and HO2 and does not undermine local objectives to create or maintain sustainable, inclusive and mixed communities. Part 2 a) of policy HO6 states that regard will be had to the existing proportion of HMO's and/or other student households in the area and whether this proportion amounts or will amount to a 'Significant Concentration'. The explanatory text to policy HO6 states that a significant concentration is considered to be 10% or greater.

A review of Council Tax data shows that in the core output area containing the application property this figure is 22%. Taking into account the surrounding output areas the figure is 54%. Clearly the proposed extensions to provide a further twelve bedrooms would further contribute to this significant over concentration to the detriment of the area's ability to be a sustainable and balanced community. This was formerly a modest detached property that historically has been



unsympathetically extended. The proposed additional extensions would represent an overdevelopment of the site and an inappropriate increase in the number of bedrooms/occupiers.

The proposal is therefore contrary to policy 8 of the ACS and policies HO1 and HO6 of the LAPP.

ii) Impact on the Amenities of Neighbouring Residents and Future Occupiers (Policy 10 of the ACS and policies DE1 and HO6 of the LAPP)

By their very nature, properties in multiple occupation tend to be used differently from a family home, with the unrelated occupants sharing the property's amenities. As detailed above the area is already imbalanced in relation to student and non-student residents. Notwithstanding the neighbouring commercial use at 367 Derby Road, properties in the immediate vicinity, in particular on Hill Side, are generally family dwellings. The proposed extensions would result in up to 29 individuals being on site at any one time which, it is considered, would be disproportionate to the size of the property and not in keeping with the immediate character of the area. The increase in intensity of use of the property as a 29 bed HMO would potentially result in an adverse impact on neighbouring residents' amenities due to: - increased noise and anti-social behaviour (ASB); poor property maintenance and inappropriate management of waste disposal; a high turnover or occupants and the absence of residents outside of term time. This issue is supported by policy HO6 of the LAPP; Houses in Multiple Occupation (HMOs and Purpose Built Student Accommodation), which states:

In assessing the development's impact on local objectives to create or maintain sustainable, inclusive and mixed use communities, regard will be given to the following criteria:

(Inter alia)

d) the impact the proposed development would have on the character and amenity of the area or site having particular regard to the criteria set out in Policies DE1 and DE2.

Policy DE1 states that:

Planning applications will be considered against the following design criteria:

b) whether a satisfactory level of amenity would be provided for occupiers of the development and/or occupiers of neighbouring properties. In assessing this, consideration will be given to issues such as privacy, daylight, sunlight, outlook, scale/massing, security, odour, dust, noise, vibration and nuisance.

Policy 10 of the ACS also seeks to safeguard neighbouring residential amenity.

The proposed works would result in the majority of outdoor amenity space being removed and replaced with hard surfacing for vehicle parking, exacerbating the over intensive nature of the development and the likely increased neighbour amenity concerns as set out above.

In terms of amenity for future occupiers, the proposed extensions and alterations would result in 5 of the 12 new bedrooms having no outlook and being served by roof lights only, given their location facing the western boundary of the site. The amenity levels within these rooms for future occupiers would be poor, with limited amounts of natural light and no outlook. Similar concerns are raised in relation to the two proposed kitchen/dining areas to serve the new 12 rooms which would be lit by slim, high level and obscure glazed windows, again given their orientation towards the property to the west.

Concerns have been raised that the proposal would result in an overbearing impact on neighbouring properties. The extensions would largely be aligned with 367 Derby Road to the west, which is in commercial use as a cosmetic surgery. The extensions would result in a degree of overbearing towards this property, however given its commercial use it is not considered that this



would be so unacceptable as to justify a reason for refusal. In relation to 6 Hill Side to the south, given the degree of separation between the properties and that the application site is due north, it is not considered that the physical impact of the proposed development would be unduly harmful to the amenities of its occupants.

For the reasons set out above it is considered that the proposal would be harmful to the amenities of neighbouring residents through the over intensive use of the site as a 29 bed HMO, and would provide poor standards of amenity for future occupants of the site, contrary to policy 10 of the ACS and policies DE1 and HO6 of the LAPP.

iii) Design and Impact on the Streetscene and Setting of Adjacent Heritage Asset (Policies 10 and 11 of the ACS, Policies DE1, DE2 and HE1 of the LAPP, and guidance contained within the NPPF)

Notwithstanding the single storey additions added to the property in the 1990's, the host property is considered to be attractively detailed and of some historic interest. As referenced by the Conservation Officer, historic mapping show that the building has stood opposite Lenton Lodge for over a century and as such is considered to positively contribute towards its setting and general distinctiveness. Until recently the site has been enclosed by approximately 3m high hedging, with the single storey extensions largely hidden in streetscene views.

Paragraph 202 of the NPPF states that 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.' The proposed upward extensions, given their proximity to site boundaries, would be prominent in the streetscene. The scale and mass of the extensions would be detrimental to the appearance of the host building but would also detract from the setting of the adjacent Grade II* listed Lenton Lodge, for which there is no clear and convincing justification. The level of harm is considered to be 'less than substantial', for which the proposal lacks the public benefit required to outweigh such harm. The proposal therefore fails to accord with policies 10 and 11 of the ACS and policies DE1, DE2 and HE1 of the LAPP.

Statement Required by Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015

In refusing planning permission for the development, due to the reasons set out in the decision notice, the Local Planning Authority has been unable to work with the applicant to overcome the issues raised in order to achieve a positive outcome.

OTHER MATTERS

n/a