

REPORT OF HEAD OF DEVELOPMENT MANAGEMENT AND REGENERATION

4 Park Drive, Nottingham

1 SUMMARY

Application No: 15/01665/PFUL3 for planning permission

Application by: Zenith Planning And Design on behalf of Mr Tom Glancz

Proposal: Retention of use of part of the first floor as a separate self-contained flat

The application is brought to Committee because it gives rise to a complex and sensitive issue.

To meet the Council's Performance Targets this application should have been determined by 24th August 2015

2 RECOMMENDATIONS

1. **GRANT PLANNING PERMISSION** subject to the indicative conditions listed in the draft decision notice at the end of this report.

Power to determine the final details of the conditions to be delegated to the Head of Development Management.

3 BACKGROUND

3.1 4 Park Drive is a semi-detached property with four floors located on the northern side of the street. Planning Records indicate that in 1986 planning permission was granted to convert the property into four self-contained flats with one flat on each floor. As part of the 1986 permission works were implemented to provide each flat with its own external entrance door. In 1988 a two storey extension was granted planning permission which provided the ground floor flat with a first floor bedroom and additional ground floor accommodation. In 2005 permission was granted for the second floor flat to insert roof lights which enabled an additional bedroom to be provided. The basement and second floor flats remain self-contained and are used as C4 houses in multiple occupation. The whole of the property is understood to be owned by the applicant, who currently lives in the ground floor flat.

3.2 In regard to the first and ground floor flats, the applicant has advised that in 2006 they created an internal link by the insertion of a doorway between the two flats at first floor level. From 2006 until 2014 the first and ground floor flats were used as one unit. In 2014 the son of the applicant occupied the first floor flat as a separate residence. It is understood that the door between the two flats was locked when the son moved in. The first floor flat continues to be used as a separate unit of accommodation and the doorway between the two flats remains locked. The applicant has advised that the door is locked for security and insurance purposes.

4 DETAILS OF THE PROPOSAL

- 4.1 Planning permission is sought to retain the use of part of the first floor as a self-contained flat. This flat contains 2 bedrooms, a living/kitchen area and a kitchen; it retains the original external entrance to it provided as a result of the 1986 planning permission. The ground floor flat has three bedrooms, 2 shower rooms, an ensuite bathroom, and a separate kitchen and living room. The ground floor flat also retains its original entrance provided under the 1986 planning permission. From information provided by the applicant the layout of the two flats has not altered since 2006 when the internal doorway between the two flats was provided.
- 4.2 The applicant has indicated that three car parking spaces are available to the rear of the property, two within carports and one within or outside of a garage. The car parking spaces are accessed by a driveway running alongside the boundary with 2 Park Drive and 1 Tattershall Drive. The parking would be allocated on a first come first serve basis to the residents within the building.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

Adjoining occupiers consulted:

The following properties were notified of the application by letter on the 6th July and the 18th August (a second notification was sent out to advise neighbours of a change of description and to clarify alterations that occurred to the property). The notification period expired on the 10th September:

Flat 1, 3 Park Drive, Nottingham
Flat 2, 3 Park Drive, Nottingham
Flat 3, 3 Park Drive, Nottingham
Top Floor Flat, 4 Park Drive, Nottingham
Ground Floor Flat, 4 Park Drive, Nottingham
Flat 3, 1 Tattershall Drive, Nottingham
Flat 2, 1 Tattershall Drive, Nottingham
Flat 1, 1 Tattershall Drive, Nottingham
3 Tattershall Drive, Nottingham
Flat 3, 1 Holles Crescent, Nottingham
Flat 2, 1 Holles Crescent, Nottingham
Flat 1, 1 Holles Crescent, Nottingham
Flat 3, 6 Park Drive, Nottingham
Flat 2, 6 Park Drive, Nottingham
Flat 1, 6 Park Drive, Nottingham
6A Park Drive, Nottingham
2 Park Drive, Nottingham
1 Park Drive, Nottingham
2 Lenton Road, Nottingham

As the proposal is located within The Park Conservation Area a site notice was displayed on the 19th August and a notice published in The Topper on the 18th August. As a result of this publicity, representations have been received from 5 neighbouring properties, of which there are three objections.

Representation 1:

This letter of representation raises no objection providing that no additional windows or fume/steam extractors are proposed within the northern elevation of 4 Park Drive.

Representation 2:

The responder has no objection to the development.

Representation 3:

In this letter the neighbour raises the following issues:

- Concern over the intensification to the number of units provided within the property and the issues that the occupation of two of the units within 4 Park Drive as student occupied houses in multiple occupation has caused in the past in relation to parking and anti-social behaviour, and that this proposal would lead to an increase in demand for car parking spaces and on-street car parking along Park Drive.

Representation 4:

In this letter the neighbour raises the following issues:-

- That the proposed development is a material change of use of a planning unit comprising the ground and first storey of 4 Park Drive including the two storey extension into two separate residential units, which excludes the two separate HMOs within 4 Park Drive. Section 55 (3) of the Planning Act states that 'the use as two or more separate dwellinghouses of a building previously used as a single dwellinghouse involves a material change in the use of the building and of each part of it which is so used';
- That an application for planning permission must be determined in accordance with the Development Plan. There is a clear policy preference in the adopted plan for family housing in Nottingham; this is indicated by spatial objective (ii) and Policy 8 of the Aligned Core Strategy (Housing Size, Mix and Choice). The first and ground floor flat accommodation is capable of functioning as family accommodation. It would be contrary to the ACS if this accommodation was to 'drop out' of the stock of family housing in the City;
- Queries the assertion made by the applicant's planning consultant in relation to the accommodation being 'unsustainable and no longer viable in a building which also contains two other flats and has only limited garden space and is therefore unlikely to be attractive to families'. The neighbour indicates that this assertion is not supported by any evidence that demand has been tested by the market and ignores the City Council's clear recognition in Policy 8 that larger family housing is a priority requirement. The application should therefore be refused and there are no material considerations that indicate otherwise;
- The impact on the Conservation Area. The intensification of the use of 4 Park Drive is detrimental to the character of this part of the Conservation Area because it increases residential population density, noise, disturbance, vehicular traffic and increases the difference between the original use of 4 Park Drive – designed as a single private dwellinghouse- and patterns of

activity associated with multi-flatted development. Park Drive is one of the principal vehicular arteries within The Park and additional parking should not be allowed;

- The use of a condition to preclude student occupation would not make the loss of family accommodation more acceptable and would be too imprecise and too difficult to monitor and police to be an enforceable condition;
- The three off street car parking spaces are not viable and there is no turning circle due to a vegetable garden that has been created. There is not enough parking to support four separate units.

Representation 5:

In this letter the neighbours raise the following issues:

- There has been much correspondence between them/their planning consultant and the Council regarding procedural matters relating to this application that in their view, if not rectified/properly addressed prior to reaching any decision on this application, it would render any grant of planning permission susceptible to judicial review – including on issues such as the accuracy of documents submitted by the applicant, the lack of proper and accurate plans (particularly regarding the parking area at this property), the misleading nature of the description and importantly, the suggestion that the Council may have already fettered its own discretion on this application due to statements the applicant alleges were made to him by the Council's Mr Poole, that his application is merely a 'box-ticking exercise'. There is also evidence that the board of the Nottingham Park Estates Limited has been misled by the description of the application;
- The neighbours query the number of flats at the property and when the use of these flats commenced. They indicate that planning permission was granted in 1978 to create two self-contained units, and that this application was retrospective. They advise that whilst the applicant may have been granted permission for 4 flats in 1986, the permission may not have been fully implemented or may have been short lived. They claim that since 1993 the property has only ever been used as three flats at any one time. In the circumstances the planning statement regarding the previous use of the property since 1986 should be given no weight;
- Their representation queries the extent and usage of on-site parking. They advise that the parking area is used by the applicant for his two cars and not by the students who occupy the basement and second floor units. The original area of hard standing has been made smaller through the creation of a vegetable garden which has led to the loss of a turning circle. Vehicles have to reverse out of the parking area, up and along the very narrow drive, onto Park Drive. In their view the layout is such that if there are three cars parked to the rear of the property that it would be difficult to move two of the cars without moving the third. In practice the applicant and his wife often choose to park one/both of their cars on Park Drive during the day and then move their cars onto the rear car parking area at night;
- The neighbours also indicate that both the carports shown on the submitted plans are used for the storage of domestic items. They also consider that the

carports are not of equal size and the smaller is not big enough to accommodate a car, that there is insufficient storage space at 4 Park Drive to accommodate the number of flats/residents at the property and that the parking area is further constrained by the need to store nine wheelie bins for the current flats. They also comment that another three bins will create further storage issues;

- The neighbours highlight the impact on residential amenity that has been caused already. In their view there has been significant intensification of use of No. 4 Park Drive since its original use as a single family home, including the creation of two student HMOs at the property each accommodating three students, and the use of 4 Park Drive as a base for the owner's professional property business. There is a clear intention on the part of the applicant to follow up the current application with an application to extend the ground floor flat that will result from the sub-division. This will further impact on residential amenity and the loss of original garden area in favour of development.
- The neighbours also emphasize the impact that increased parking congestion in the Park has had on the character and appearance of the Conservation Area as well as the residential amenity of residents. In their view 4 Park Drive makes a disproportionate demand on the limited street parking that is available, due to the sheer number of individuals living at the property, all of whom appear to have cars. There are currently eight vehicles attached to 4 Park Drive during any one academic year and this does not take account of the regular visitors to the property. The number of cars may increase in the future when one or both of the newly created residences are leased. The parking area provides practicable parking for two vehicles only.
- The neighbours do acknowledge that parking and its impact on residential amenity is an issue in the Park and that the NPEL are under pressure to introduce changes designed to alleviate competition for parking/parking congestion. They indicate that there have been plans to limit the number of parking permits to two per household which favours the residents of sub-divided properties. The neighbours also emphasize that the NEPL have limited powers to appropriately deal with and enforce car parking restrictions, due to the way in which the board is set up.
- The neighbours point to the issues that the lack of appropriate car parking for residents in the area causes. There have been many cases of cars being parked in front of driveways/garages belonging to other properties. As Park Drive is not particularly wide the parking of cars either side of the street often leaves only room for one vehicle to pass. Park Drive does not just accommodate local traffic but is used as a cut through by commuters. Traffic speeds are an issue and there have been a number of near misses.
- The neighbours also indicate that there have been several instances of noise nuisance over the years as the students in the HMOS and their visitors come and go from the property, often in the early hours. The applicant has an anti-smoking policy and the lack of outdoor private space available means that occupants smoke on the street.
- The proposed development is a material change of use comprising the "sub-division" of a planning unit (Section 55 (3) of the Planning Act). The applicant

ought to have obtained planning permission prior to the sub-division in 2014. The Council has arguably already fettered its discretion on this application by virtue of pre-application advice given. Section 38(6) of the 2004 Planning and Compulsory Purchase Act (repeating in substance the predecessor provision which was section 54A of the Town and Country Planning Act 1990) provides that an application for permission must be determined “in accordance with the development plan unless material considerations indicate otherwise”. The primacy of the adopted development plan is a matter of statute and the meaning of the policies it contains is a matter of law (Tesco v Dundee) i.e. the LPA is no longer entitled to simply adopt *any* rational interpretation of the words of a policy but must apply the “right” interpretation of the policy or risk interference from the Court.

- The neighbours also indicate that the current application must be determined in accordance with the current planning regime. The fact that permission was granted in 1986 for four flats under a very different planning regime is completely irrelevant. Equally, the use of the building between 1986 and 2006 should carry no weight. That is particularly so in the light of further evidence adduced to the Council based on Council tax records for the property questioning whether (1) the 1986 permission was ever fully implemented at all and (2) whether there have actually ever been more than three flats at the property at any one point in time.
- The fact that the sub-division has taken place carries no weight as a matter of planning law. In any event, it is noted that the applicant says in his application that there have not been any changes to the layout of the building to accommodate the sub-division and therefore, there would not be any significant disruption to the applicant if the application were refused.
- There is a clear policy preference in the adopted development plan for family housing in Nottingham. This preference is also included in emerging planning policy which is a material consideration. It is clear that the family housing policy should be applied to flatted accommodation. The family apartment is capable of functioning as family accommodation. It did so from 2006 to 2014 and still does insofar as the first floor flat is still occupied by the applicant’s son rather than a market rent-paying non-family member as a tenant.
- The neighbours also query assertions made by the applicant’s planning consultant. In their view there is no evidence to indicate that the family accommodation is unsustainable and has no viable long term future in a building that contains two other flats and has limited garden space. No market testing has been carried out and the statement ignores the City Council’s clear recognition in Policy H8 that larger family housing is a priority requirement. The family accommodation has been occupied by the applicant and it does not follow that the flat may not be attractive to another family. There are examples of other families choosing to live in The Park in properties with limited garden space. It is contradictory to state that limited garden space makes the apartment unattractive to families but to argue that the smaller ground floor flat that would remain would still represent good family accommodation. It would appear that the ground floor is insufficient even for the needs of the applicant due to the need to extend the ground floor accommodation to create a new dining room. It would be easy for a new family to re-configure the layout of the first and ground floor to provide

suitable accommodation. What is actually meant by the planning agent is that the unit is no longer viable for the applicant, which should be given little weight. The ownership of 4 Park Drive is material as there is still a very real possibility that the whole of 4 Park Drive could come up for sale and be brought by a family or extended family.

- The neighbours also advise that other material considerations indicate that permission should not be granted. The application should be refused for the following reasons: impact on character and appearance of the Conservation Area; anti-social behaviour and noise nuisance; parking; unsafe highway conditions; and the standard of amenity provided for the first floor flat.
- In relation to the impact on the Conservation Area the neighbours point to the further intensification of the use of the property, which in their view is detrimental to the character of this part of the Conservation Area because it further increases residential population density, noise, disturbance, vehicular traffic and further increases the difference between the original use of the property designed as a single private dwelling house and patterns of activity associated with multi-flatted development. Park Drive remains to a significant degree a street with single private dwelling houses which have not all been sub-divided and therefore contributes significantly to the character of this part of the CA. The applicant could not and does not advance that the development contributes towards local character and distinctiveness.
- With regard to anti-social behaviour the neighbours advise that there are issues with the layout of the flats and there is likely to be conflict given that the only bathroom to the first floor flat is through a bedroom. They also indicate that there could be privacy/sound proofing issues from the lack of proper partition between the ground and first floor accommodation.
- The neighbours believe that the most likely occupants of the units will be students. Whilst the neighbours acknowledge that the applicant has offered to provide a voluntary condition in regard to the smaller first floor flat that will prevent it being rented out to undergraduate students, they do not consider that this would suffice. In their view this would do nothing to make the loss of family housing acceptable. Furthermore the condition is too imprecise and too difficult to monitor/police. It is also noted that the same condition has not been offered for the smaller, ground floor unit that will be created through this sub-division. If permission is granted a unit accommodating 10 students, each with cars, could be created.
- The presence of a large family apartment in the building tends to constrain the antics of the student tenants. It is unreasonable for the Council to allow the delicate household mix at this property to be eroded merely to allow the applicant to seek to further maximise his rental stream from the property to the further detriment of residential amenity/the conservation area.
- In relation to car parking/parking congestion/student policy, the neighbours re-emphasize the issues caused and also query Council car parking policy. They indicate that it has been suggested by one of the Council's planning officers that the Council does not pay much attention to parking in terms of planning applications within The Park although this is a material planning consideration in other areas of the City. No explanation has been provided why this should be the case and no reason given as to what has changed

since 1986 when parking was a concern of the Council. Given the Conservation Area designation, it is arguable that more weight should be given to parking congestion in the Park.

- The neighbours note that the planning agent for the applicant makes reference to parking being under the control of the board of the NPEL, however due to the Conservation Area designation this cannot be right. It would be a clear abrogation of duty for the Council to take this approach. This factor should be given little weight, particularly in the light of the Board's limited powers to act. The board of the NPEL simply does not have the wide ranging statutory powers available to the Council to limit parking within the Park. As a limited company with shareholders and a constitution, there needs to be consensus to any changes made to tackle the problem (and there hasn't been to date) and in any event, the Board is constrained by considerations of fairness and discrimination. Further, the Board has no powers to limit the increasing parking pressures arising if the Council remains intent on allowing the proliferation of HMO's and property subdivisions in the area.
- In the neighbours view it is Council policy to move students away from the general housing market into purpose-built accommodation. However, the Park continues to remain an attractive place for student landlords/students precisely because the Park provides considerable advantages to students in terms of parking as compared with other areas of the City. Any failure by the Council to give proper and detailed consideration to parking because it considers this to be the responsibility of the board of the NPEL will simply lead to that policy being undermined. If this application is granted, it will give clear incentive to other student landlords within the Park to seek to find a way around the limitations imposed by the Article 4 direction by applying to sub-divide student properties, where it is practicable to do so, into smaller units of accommodation, each accommodating up to two students. The neighbours reiterate the issues surrounding the inadequacy of the on-site parking provision.
- In their view the implementation of a parking condition in 1986 did not protect their or other neighbours' residential amenity (as was intended) and is unlikely to be effective in doing so in the future. As they have said above, the carport was until recently used for storage (supported by photos), the Council have confirmed the garage is full of domestic items and part of the original parking area has gone due to the creation of a vegetable garden.
- The neighbours advise that the application should be refused, to protect their and other neighbours' residential amenity, the character and appearance of the conservation area (parking congestion) and to avoid giving student landlords (as here) a clear signal that a way around the Article 4 designation is sub-division.
- The neighbours also raise the issue of unsafe highway conditions and do not agree with the contention made in the planning statement that the existing highway conditions are safe for pedestrians and other road users. They also note than no evidence has been provided in support of such assertion. An extra household at No 4 Park Drive will further aggravate the existing unsafe conditions if the new occupants (and their visitors) bring additional cars with them.

- In regard to the standard of amenity of proposed new first floor flat, the neighbours note the reference in the planning statement to the need for the Council to ensure that developments provide good standard of amenity for all existing and future occupiers of land and buildings. Clearly, the smaller first floor flat is not suitable for use by more than one occupant or a couple due to the absence of a proper, independent bathroom and it is questionable whether a locked door provides an adequate level of privacy/security for the occupants of either unit.

A further representation has been received from a planning agent acting on behalf of the neighbours who submitted representation 5. This raises the following issues:-

- The agent is disappointed that the City Council has agreed to retain the current description. The agent advises that this proposal comprises a change of use to two apartments from one and that it is illogical to describe it otherwise. In their view to do so ignores the fact that a second unit is created, the outward impression of the current description is of a more modest and different proposal than is the case in reality, hiding the fact that a larger family-sized dwelling unit would be lost. The agent also indicates that the description gives no steer towards the relevant policy implications, this is misleading and inaccurate. In the agent's opinion the City Council should alter the description and re-publicise in the interests of accuracy, clarity and transparency. The agent also highlights that it is important that when the application goes to Planning Committee that it is made clear to members that this application sub-divides a larger family-sized dwelling unit to create two separate dwellings.
- In the agents opinion 4 Park Drive has been subject to considerable intensification over the years through both operational development – including a large rear extension – and change of use to form more than one HMO. The agent does acknowledge that these changes were carried out under a previous planning policy regime and would not be permitted now, but emphasises that the current application must be considered in the context of planning policies of the day. In their opinion it is important that a decision is not made which would go against the direction of current policy thrust, as this could set an undesirable precedent and undermine objectives of these policies. For the agent the main potential impacts and relevant policy areas in relation to this application are sub-division and loss of larger family housing, parking and impacts on the character and appearance of the Park Conservation Area.
- Sub-division and loss of larger family housing – The agent advises that the City Council has sought to encourage family housing, and the creation and maintenance of balanced communities. This, they state, has continued into the Aligned Core Strategy Policy 8 which emphasises the need for family housing. Part 4 of the policy is highlighted within the agent's letter, which states that the appropriate mix of house sizes, types, tenures and densities will be informed by the need to redress the housing mix within areas of concentration of student households and Houses of Multiple Occupation. There is also reference in the Policy to the potential for housing mix to impact on the character of an area. The supporting text to the policy indicates that the provision of more homes suitable and attractive to families is a key priority and that the imbalance is particularly acute in larger homes

of 4 or more bedrooms and that the provision of these larger homes is a particular priority. In the agent's view the proposal would lead to the loss of a larger family home with five bedrooms. The agent indicates that The Park is an area where there are many HMOs and a concentration of students, such that the City Council seeks to enforce against properties occupied by three or more unrelated people. In this context the City Council has sought to resist the loss of family housing through the sub-division of properties and the formation of HMOs, even to the extent that permitted development rights have been removed across the City by an Article 4 Direction. In the opinion of the agent the application runs contrary to the thrust of Policy 8 and the reasons for imposing the Article 4 direction and that there would need to be clear counter indications and material considerations to overcome such conflict with the development plan.

- Parking – The agent advises that the planning policy framework in place indicates that for a development such as this, located in a relatively sustainable location, the level of car parking might be kept below the maximum level of 6 spaces (as there would be 4 dwelling units in the building). However, there are other factors against which the scheme needs to be assessed. The application states that there are three on-site spaces, which is half of that which might be expected. Furthermore, there are uncertainties about the accuracy and layout plan for parking and manoeuvring areas. This raises the question of whether 3 cars can be parked within the site. This increases the likelihood of on street parking and raises the possibility that cars cannot enter and leave in a forward direction, with consequent implications for highway safety.
- The Park Conservation Area – The agent has considered Policy BE12 and its accompanying text, which state that development should be granted, where the proposal preserves or enhances the character or appearance of the Conservation Area. The agent also highlights that this is not just a policy proposal but a statutory obligation. Recent court cases have highlighted that special weight needs to be given to any harm to statutory designated heritage assets, even where this harm would be less than substantial.
- The agent also advises that The Park's Conservation Area Plan gives detailed guidance to support the approach of Policy BE12. The Plan seeks to deter the loss of family accommodation, including subdivision and resulting intensification of use. It also seeks to discourage development which would lead to additional parking requirements, which can have an adverse impact on the character and appearance of the Conservation Area street scene. This application consists of the sub-division of family accommodation, an intensification of use of a building within a site which has already been subject to extension and intensification in the past. Sub-division is recognised as having a tendency to increase the amount of vehicular movements and an increase in the number of car parking spaces required.
- Emerging Local Plan Policies – The agent has indicated a number of emerging planning policies that should be considered in relation to this application. Policies DM27, DM46 and DM 37.
- Policy DM27 relates to housing and in the view of the agent expresses a clear preference for family housing on suitable sites – including larger family homes. The agent advises that there should be an onus on the applicant to

demonstrate that one or more of the criteria associated with the policy can be met in relation to this proposal. No information has been provided, and there is no evidence that the size of the accommodation makes it unsustainable for family use. The agent queries why the premises would be unattractive to families and indicates that there is a degree of contradiction within the planning statement submitted with the application, stating that the applicant has used the accommodation as a family home for a number of years, which would support the view that there is no serious obstacles to it being used in this way.

- Policy DM46 of the emerging plan relates to car parking. The new policy takes a similar approach to the current car parking policy in that it seeks to achieve a sustainable and appropriate level of parking provision by dealing with proposals on a case by case basis. The emerging plan envisages a maximum level of 1.5 parking spaces per dwelling. Whilst the agent acknowledges that this could lead to the approval of the application without car parking controls or provision, it does not obviate the need to carefully consider the level of current on-site provision and the implications of additional on-street parking.
- Policy DM37 relates to Conservation Areas. One of the criteria against which proposals in Conservation Areas will be assessed is whether the proposal would preserve and where possible enhance the character or appearance of heritage assets. The policy also looks to assess whether development would contribute towards the long term maintenance and management of such assets.
- To conclude the agent re-emphasizes that there is a clear direction of travel for planning policies in Nottingham which seek to avoid over concentration of one type of accommodation and to retain and encourage family housing in areas outside of the City Centre. This application, in their view, would lead to further intensification of a property that has been extended in the past, which would lead to increased noise and disturbance and on-street parking. The Agent also emphasises the special regard that must be given to any impacts on the character and appearance of The Park and that further subdivision and intensification of use would run contrary to policy. The agent also suggests that if planning permission were granted conditions should be included requiring a detailed plan showing how the three car parking spaces and vehicular manoeuvring space can be created, details of how the parking areas and turning circles will be maintained free of obstruction, and restricting occupation to people who are not in full time education.

Additional consultation letters sent to:

Pollution Control: No comments to make.

Traffic Management: The Park Estate is not adopted public highway. Traffic Management advised verbally that the parking arrangements to the rear of the site are workable between co-operative users of the site.

6 RELEVANT POLICIES AND GUIDANCE

National Planning Policy Framework (March 2012):

The NPPF advises that there is a general presumption in favour of sustainable

development and development that is sustainable should be approved. Of particular relevance to this application is paragraph 134 which sets out the approach to be followed when assessing the impact of development on heritage assets.

Nottingham Local Plan (November 2005):

H2: Density – this policy advises that the City Council will seek a density of development on residential sites that are compatible with the characteristics of the site and its surroundings, safeguards living conditions in the development and the site is accessible to public transport and services.

BE12: Development in Conservation Areas – this policy seeks to ensure that the character or appearance of Conservation Areas are preserved or enhanced. .

T3: Car, Cycles and Servicing Parking – this policy seeks to ensure that appropriate levels of car parking are provided as part of developments.

Aligned Core Strategy (September 2014):

Policy 8: Housing Size, Mix and Choice - Residential development should maintain, provide and contribute to a mix of housing tenures, types and sizes in order to create sustainable, inclusive and mixed communities. Within Nottingham City there should be an emphasis on providing family housing, including larger family housing.

Policy 10: Design and Enhancing Local Identity – new development should be designed to create an attractive, safe, inclusive and healthy environment.

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

Supplementary Planning Guidance and other Documents:

The Park: A Conservation Plan for the Park Estate (August 2007)

Houses in Multiple Occupation Article 4 Direction (December 2011)

Land and Planning Policies – Preferred Options September 2013

Although the neighbour and her planning agent make reference to emerging plan policies these have not been out to formal consultation or independent examination and therefore are not yet at a stage where they should be afforded weight in the determination of planning applications.

7. APPRAISAL OF PROPOSED DEVELOPMENT

Main Issues

- 7.1 For the avoidance of doubt, this application does involve a material change of use consisting of a single dwelling being used as two separate ones. The applicant advises that the change of use applied for has already occurred and therefore retrospective planning permission is sought. It is considered that the description of the application does adequately describe what is being applied for namely; the retention of part of the first floor of 4 Park Drive as a separate self-contained flat.

Given the details and plans submitted as part of the application it is clear that as a result of this proposal, the ground floor flat and its accommodation located on part of the first floor would form another separate unit of residential accommodation.

7.2 The main issues in relation to this application are:

- (i) Sub-division and housing policy
- (ii) Intensification of residential use
- (iii) Adequacy of accommodation provided
- (iv) Car parking requirements and highway safety
- (v) Impact on neighbouring residential occupants
- (vi) Impact on the character and appearance of the Conservation Area

Other matters raised are:-

- (i) Impartial determination of this application
- (ii) Description
- (iii) Relevance of the 1986 permission
- (iv) Applicants business and implementation of previous permissions and future development.

Issue (i) Sub-division and Housing Policy (Policy 8 and H2)

- 7.3 If approved this application will regularise the creation of two C3 units. Policy H2 requires the density of development to be compatible with the characteristics of the site and its surroundings. Policy 8 of the ACS advises that residential development should maintain, provide and contribute to a mix of housing tenures, types and sizes in order to create sustainable, inclusive and mixed communities. There is an emphasis within the Nottingham City area of providing family housing, including the provision of larger family housing. Furthermore there is a recognised shortage of larger homes of four or more bedrooms, which is indicated within the supporting text to Policy 8.
- 7.4 Whilst the Park Conservation Management Plan does seek to prevent the loss of good quality family housing and states that change of use to flats will be resisted where it results in the loss of family accommodation, it indicates that conversion schemes which provide larger flats suitable for family occupation may be acceptable.
- 7.5 This proposal relates to a large, former single dwelling with a history of sub-division. Such sub-division within The Park has generally resulted from a lack of demand by single families for the very large accommodation that these properties offer. Indeed, as in this case, the sub-divided units are in themselves often extremely large and suitable for family occupation. Within this context, the creation of an additional unit within the already sub-divided building is viewed as acceptable, subject to the resulting accommodation being appropriate in its own right. The proposal is not seeking to sub-divide a freestanding family dwelling, but rather a large unit within a building already sub-divided into apartments.
- 7.6 The first floor and ground floor accommodation resulting from the sub-division that has taken place provides a two bedroom flat at first floor and a three bedroom flat at ground floor, both of which are large in terms of their room sizes and overall floor area. The size of the accommodation is such that both flats would be suitable for occupation by families. The sub-division of the ground floor and first floor

accommodation is therefore considered acceptable in principle subject to the development's compliance with other policies of the development plan.

Issue (ii) Intensification of Residential Use

- 7.7 4 Park Drive contains two other residential units and Council Tax records indicate that these properties have been registered as in occupation by students since 2005 (top floor flat) and 2006 (basement flat) . Planning records indicate that the basement flat has two bedrooms and that the second floor flat has three bedrooms; neighbours indicate that both have 3 occupants each. The use of these flats as houses in multiple occupation (class C4 units) commenced before the Article 4 direction came into force in March 2012 and as such the ability to occupy these other flats as houses in multiple occupation (class C4 units) appears lawful.
- 7.8 The two C3 flats created by the sub-division of the ground and first floor accommodation could (as a result of the Article 4 direction) only be occupied by families or at most two un-related occupants in each unit without requiring further planning permission. As C3 units, given the number of bedrooms provided, it is likely that 2 to 3 people could live in the first floor flat and 3 to 4 people could live in the ground floor flat, indicating their appropriateness for family occupation. The ground and first floor flat as one single family unit, with 5 bedrooms, could reasonably be occupied by at least 5 to 6 people. The difference in the number of people that could occupy the two units as opposed to one is not considered to be significant. The granting of planning permission in 1986 to allow the creation of 4 self-contained flats is a material planning consideration, however as planning policies have changed over time, the application is required to be assessed against current planning policy.

Issue (iii) Adequacy of accommodation provided (Policies H2, 8 and 10)

- 7.9 Policy 8 seeks to ensure that all residential development contains adequate internal living space and Policy 10 states that development will be assessed in terms of its impact on the amenity of occupiers. Policy H2 indicates that where higher density development is proposed satisfactory levels of sound insulation will be required.
- 7.10 This building is already sub-divided into different flats and the relationship between the units it is proposed to sub-divided would be little different to the relationships that exist between the other existing flats. The lack of a solid partition at the point of the adjoining door between the first floor flat and the first floor accommodation of the ground floor flat, is likely to increase the level of noise transmission between the units at this particular point. If planning permission is forthcoming a planning condition would be attached to require details of sound proofing to address this matter, to ensure that reasonable living environments can be provided for future occupants.
- 7.11 If permission were granted it would also be possible to impose a condition requiring bin storage details to be provided and agreed, to ensure that appropriate provision is made in this regard.
- 7.12 Whilst access to the bathroom of the first floor flat through a bedroom, the flat does have adequate provision and it would be unreasonable to refuse planning permission or impose a condition in these circumstances. It is also a matter that could be resolved with modest building works.

Issue (iv) Car Parking Requirements and Highway Safety (Policy T3)

- 7.13 Policy T3 operates on the basis of maximum car parking levels. As such there is no specified minimum level of car parking to be associated with development, but rather each proposal is considered on its own merits. In relation to this development Policy T3 would seek no more than a maximum of 1.5 spaces per dwelling, giving a maximum provision of 6 spaces overall. Policy T3 also provides criteria for judging what on-site provision may be considered acceptable, these are: the impact on the amenity of occupiers of neighbouring property; the location of the development; existing off street car parking provision; and whether the traffic generated would prejudice highway safety and be detrimental to the character and amenity of Conservation Areas.
- 7.14 The site is close to the City Centre and is accessible to public transport provision, the need for a private motor vehicle is therefore reduced. Under Policy T3 this factor would reduce the number of car parking spaces that would be sought from a development proposal within this area. People looking to live within the Park area would be aware of the on-street car parking restrictions that are in place and this is likely to affect a decision about whether to live within the Park or not.
- 7.15 Despite the concerns raised by some neighbours, Park Drive does have capacity for on-street car parking. Furthermore this is a private estate where the parking of residents cars is controlled through permits by the Nottingham Park Estate. For an apartment building in this location, the Council would typically accept between 0-4 parking spaces. With 2/3 spaces available to the rear and the additional controlled capacity of on-street car parking, the proposed parking arrangements (in principle) would not be considered a ground on which the application could justifiably be refused. It is also likely that the demand for car parking generated by the two sub-divided units would be similar to that generated by the ground and first floor flat as a combined unit.
- 7.16 There could, however, be issues in terms of the ability of residents utilising the intended spaces to easily enter and leave the site given the existing layout of the car parking area. To increase the usability of these car parking spaces and to reduce the likelihood of anti-social behaviour it is prudent to attach a planning condition requiring the submission of a detailed plan showing how many car parking spaces with appropriate vehicular manoeuvring space can be accommodated within the site and details of how the parking areas and turning circles will be maintained free of obstruction.

Issue (v) Impact on Neighbouring Residential Amenity (Policy 10)

- 7.17 As the number of occupiers at 4 Park Drive as whole is likely to be similar whether the ground floor and first floor is combined as one unit or is divided into two units, the impact for neighbouring properties in terms of noise and disturbance is also unlikely to be significantly different. The refusal of the application on this ground would therefore be difficult to justify.

Issue (vi) Impact on the Park Conservation Area (Section 72 of the Planning (Listed Building and Conservation Area) Act 1990, NPPF paragraph 134 and policies BE12 and 11 of the local development plan)

- 7.18 The key aspects which the neighbours have highlighted in relation to the impact that this application could have on the character and appearance of the Park

Conservation Area are:-

- an increase in demand for on-street car parking spaces and
- the intensification of use of the property resulting in more noise and disturbance.

- 7.19 For the reasons indicated in paragraph 7.13 to 7.16 above it is concluded that there will be limited if any increase in vehicular traffic, congestion and on-street car parking arising from the development. As discussed at paragraph 7.8 and 7.16 above the potential increase in numbers of people at the property would not be so significant as to be material and the noise and traffic movements generated by occupants is likely to be similar whether the property is occupied as three or four flats. Issues such as bin storage, amenity for occupiers and adequacy of car parking provision raised by objectors can be controlled through planning conditions. The further sub-division of the property is not easily perceivable and no external alterations have occurred to facilitate the change of use that could affected the character and appearance of the Conservation Area.
- 7.20 Section 72 of the Planning (Listed Building and Conservation Area) Act 1990 requires: - "that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area". In this regard the character and appearance of a conservation area is preserved where development has a neutral impact on it. For the reasons identified above, in paragraph 7.19, this is felt to be the case with this development. This statutory duty does permit a situation where there is a neutral impact on the Conservation Area, which is the case that this application presents.
- 7.21 Paragraph 134 of the NPPF indicates 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. It is acknowledged that there are limited public benefits arising from this scheme, but as no harm is caused by it the conclusion is that the proposal is acceptable.
- 7.22 Policy 11 indicates that proposals will be supported where the historic environment and elements of the historic environment are conserved and/or enhanced Policy BE12 makes reference to preserving the character or appearance of a Conservation Area. Both policies suggest that a neutral impact on a Conservation Area should be viewed as being acceptable in planning terms. In light of the above, it is considered that the application accords with national and local policy in relation to Conservation Areas and the Council would not breach its statutory duty by granting permission.

Other Matters

(i) Impartial Determination of this application

- 7.23 One of the objectors has raised the issue that the Council may have fettered its own discretion on this application in relation to comments alleged to have been made by an officer when giving pre-application advice. It is normal for planning officers to give a view on the likely acceptability or otherwise of a proposal at pre-application stage. Such advice is given at officer level without prejudice to any decision taken on the application by the Council, and case law confirms that such an approach is permissible.

(ii) Description

- 7.24 Two of the objectors have raised concern over the description given to this application. Paragraph 7.1 sets out what permission has been applied for and acknowledges that the single dwelling within 4 Park Drive has been sub-divided to create two separate units of accommodation and that there are already two other separate residential units at the property. As the use has already commenced and the application is to regularise that use the description applied by the applicant is felt to be in the range of appropriate descriptions that could have been applied to the application.

(iii) Relevance of the 1986 Planning Permission

- 7.25 The planning permission in 1986 for the creation of four separate units at the property is a material consideration, but it is also recognised that the application is required to be assessed against current planning policy, as set out elsewhere in the report.

(iv) Applicants business and implementation of previous permissions and future development

- 7.26 It is noted that one of the objectors suggests that the applicant may be running a business from the ground floor flat that he occupies and that the 1986 permission may not have been fully implemented for a number of years. The objector also suggests that the applicant may intend to carry out further development at the site. These matters do not form part of the current application, if there are enforcement issues related to them then this can be subject to further investigation. If additional planning applications are submitted these will be assessed appropriately following correct procedures.

8. SUSTAINABILITY / BIODIVERSITY

The development results in the creation of two units that could be occupied by families within a sustainable location. The application does not raise any biodiversity issues.

9 FINANCIAL IMPLICATIONS

None.

10 LEGAL IMPLICATIONS

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

11 EQUALITY AND DIVERSITY IMPLICATIONS

None.

12 RISK MANAGEMENT ISSUES

None.

13 STRATEGIC PRIORITIES

The development does provide accommodation suitable for families which is a strategic priority for the Council.

14 CRIME AND DISORDER ACT IMPLICATIONS

Issues relating to anti-social behaviour have been considered as part of the assessment of the application and are set out in section 7 of the report.

15 VALUE FOR MONEY

None.

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

1. Application No: 15/01665/PFUL3 - link to online case file:

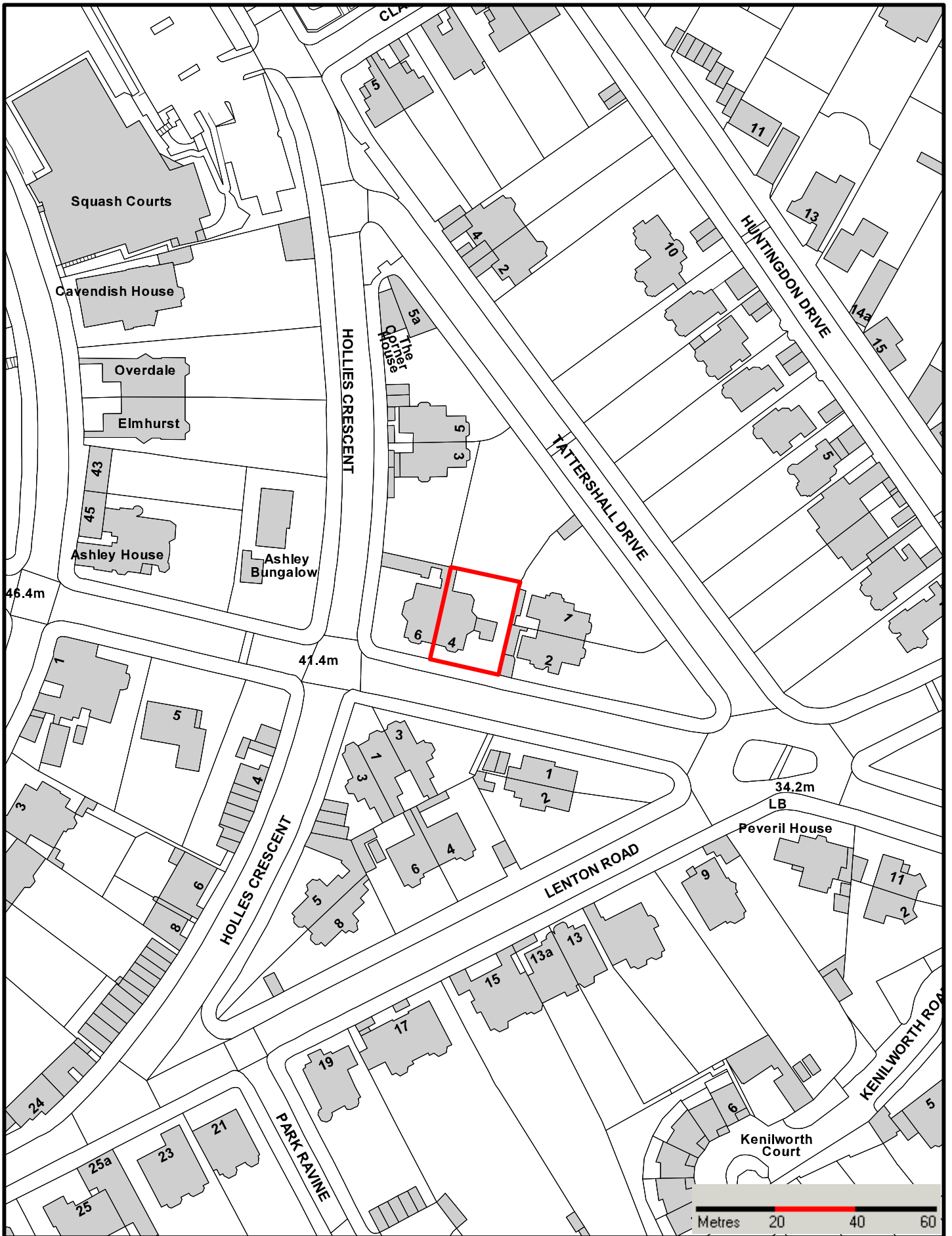
<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NQE9BOLYCB000>

17 Published documents referred to in compiling this report

Nottingham Local Plan (November 2005)
Aligned Core Strategy (September 2014)
The Park: A Conservation Plan for Nottingham Park Estate (August 2007)
Land and Planning Policies Document – Preferred Option (September 2013)
Houses in Multiple Occupation Article 4 Direction (December 2011)

Contact Officer:

Miss Jennifer Cole, Case Officer, Development Management.
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Nottingham
City Council

My Ref: 15/01665/PFUL3 (PP-04295083)
Your Ref:
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Zenith Planning And Design
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NG16 3DG

Date of decision:

**TOWN AND COUNTRY PLANNING ACT 1990
APPLICATION FOR PLANNING PERMISSION**

Application No: 15/01665/PFUL3 (PP-04295083)
Application by: Mr Tom Glancz
Location: 4 Park Drive, Nottingham, NG7 1DA
Proposal: Retention of use of part of the first floor as a separate self-contained flat

Nottingham City Council as Local Planning Authority hereby **GRANTS PLANNING PERMISSION** for the development described in the above application subject to the following conditions:-

Time limit
. There are no conditions in this section.
Pre-commencement conditions (The conditions in this section require further matters to be submitted to the local planning authority for approval before starting work)
There are no conditions in this section.
Pre-occupation conditions (The conditions in this section must be complied with before the development is occupied)
There are no conditions in this section.
Regulatory/ongoing conditions (Conditions relating to the subsequent use of the development and other regulatory matters)
1. For the avoidance of doubt, the two residential units resulting from this permission are dwellings falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987, as amended or any re-enactment thereof. <i>Reason : For the avoidance of doubt and to define the scope of the planning permission.</i>

2. Within 28 days from the date of this permission the following shall be submitted to and approved in writing by the Local Planning Authority:

- (a) detailed plans showing the location of bin storage for all the properties within 4 Park Drive;
- (b) detailed plans showing the car parking spaces and associated manoeuvring area to the rear of 4 Park Drive, together with details of how these shall be maintained free of obstruction; and
- (c) a timetable for the implementation of any works required to satisfy (a) and (b) above.

Thereafter the car parking and bin storage shall be provided in accordance with the approved details.

Reason: To ensure that adequate bin storage and parking facilities are provided in order to safeguard the amenity of residents of the property, neighbouring occupants and the character and appearance of the Park Conservation Area, in order to accord with policy BE12 of the Local Plan and policies 8 and 11 of the Aligned Core Strategy

3. Within 28 days of the date of this permission, details of adequate soundproofing to be provided at the point of the adjoining door between the two flats, together with a timetable for its implementation, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the soundproofing shall be provided in accordance with the approved details.

Reason: To ensure satisfactory living conditions are provided to the occupants of the first and ground floor flats in order to accord with Policy H2 of the Local Plan and Policy 10 of the Aligned Core Strategy

Standard condition- scope of permission

S1. Except as may be modified by the conditions listed above, the development shall be carried out in complete accordance with the details described in the forms, drawings and other documents comprising the application as validated by the council on 29 June 2015.

Reason: To determine the scope of this permission.

Informatives

Where a condition specified in this decision notice requires any further details to be submitted for approval, please note that an application fee will be payable at the time such details are submitted to the City Council. A form is available from the City Council for this purpose.

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

RIGHTS OF APPEAL

Application No: 15/01665/PFUL3 (PP-04295083)

If the applicant is aggrieved by the decision of the City Council to impose conditions on the grant of 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.