

REPORT OF HEAD OF DEVELOPMENT MANAGEMENT AND REGENERATION

Wendover House, 15 Winchester Street

1 SUMMARY

Application No: 15/03232/PVAR3

Application by: DPP One Ltd on behalf of Homes2inspire

Proposal: Variation of condition 3 of planning permission reference 229/7/86 to allow use as a children's care home.

The application is brought to Committee because it considered to be sensitive in view of significant local interest contrary to officer recommendation.

To meet the Council's Performance Targets this application should have been determined by 18th February 2016

2 RECOMMENDATIONS

To grant planning permission subject to the indicative conditions set out in the draft decision notice at the end of this report.

The power to determine the final details of the conditions of the planning permission to be delegated to Head of Development Management and Regeneration.

3 BACKGROUND

3.1 The application property is a two storey former dwellinghouse currently vacant and previously in use as a residential care home for the elderly. The building is set at the back of its site, its rear wall on the boundary with gardens of houses on Hood Street and Cramworth Grove, and has a long front garden and parking area between it and Winchester Street. The area is allocated in the Local Plan as Primarily Residential, although the properties on either side of the site are currently in use as a veterinary clinic and a chiropractic clinic.

3.2 Planning permission was granted in 1986 for use as rest home for the elderly (ref.229/7/86). This permission was subject to a condition that:

“Notwithstanding the Town and Country Planning (Use Classes) Order and any Town and Country Planning General or Special Development order for the time being in force relating to “permitted development”, the premises shall not be used for any purpose other than an elderly persons’ home”.

Reason: “To ensure that future uses will not prejudice the amenities of occupiers of nearby property”.

- 3.3 The building has subsequently been extended and conditions imposed restricting the number of residents to 15 at the rest home for the elderly.

4 DETAILS OF THE PROPOSAL

- 4.1 The application is to vary the condition noted in 3.2 above to read:

‘Notwithstanding the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting that order with or without modification) the premises shall be used only as an elderly persons home or as a children's care home and for no other purpose (including any other use falling within Class C2 of the order).’

- 4.2 This would allow the building to be operated as a children's care home for up to 5 children, with 2 members of staff permanently on site at all times. The home would have a communal lounge, dining room, kitchen and education room and the young people residing in the house would have their own lockable bedrooms.
- 4.3 Approval of the variation to the planning permission reference 229/7/86 condition 3 would result in the issuing of a new standalone planning permission.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

Adjoining occupiers consulted:

Letters notifying neighbours of the planning application have been sent to thirteen addresses on Cramworth Grove, Winchester Street and Hood Street, and a site notice has been posted. The expiry period for the consultation process was the 18th February.

Sixteen letters and e-mails objecting to the proposal have been received as a result of this publicity, the representations are summarised below:

- The applicants are not a fit and proper organisation to run such a scheme;
- The site is close to other institutional uses in the area, leading to concerns of saturation;
- The rear wing and windows of Wendover House are in very close proximity to houses on Cramworth Grove, the boundary is insecure, and noise, antisocial behaviour, etc would impact on local residents;
- There is a vast difference between residential use for frail elderly residents, and vulnerable young people, in terms of behaviour, noise levels etc;
- The site, lacking a rear garden and being on a busy road, is not suitable for children;
- The use is likely to lead to other young people congregating nearby, leading to anti-social behaviour.

A petition has also been received with 12 signatories, objecting to the proposal and centring on how complaints regarding children's' homes are dealt with, what other residential institutions are in the area and management of the home.

Three emails have been received in support of the proposal, noting the need to integrate vulnerable children into a community, that risks would be managed and that the applicants have good Ofsted reports elsewhere in the area.

One email received is neutral, having no objection to the principle of the use but expressing concern about the applicants.

6 RELEVANT POLICIES AND GUIDANCE

Nottingham Local Plan (November 2005):

H8 - Residential Homes and Hostels. Seeks to grant permission for residential, rest and care homes subject to there being adequate transport and services, no overconcentration and a satisfactory residential environment for occupants.

Aligned Core Strategy (September 2014):

Policy A: Presumption in Favour of Sustainable Development - working proactively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

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

7. APPRAISAL OF PROPOSED DEVELOPMENT

The main issue in relation to this proposal is:

Impact on Residential Amenity (Policy 10 of the ACS)

- 7.1 The Use Classes Order describes Use Class C2 (residential institutions) as 'residential accommodation and care to people in need of care', and does not distinguish between residents by age or care required. 'Care' is defined in Article 2 of the Use Classes Order as meaning "personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment. It is expected, then, that changes can be made between homes for the elderly and children's homes without the need for planning permission. The placing on the 1986 permission of the condition restricting the use allows consideration of the issues, albeit against the background of the expectation that this change would not normally require permission.
- 7.2 A number of objectors have referred to this being an unsuitable location for a children's care home. The provision of such a use in a residential area close to facilities allows residents to be fully integrated into an existing local community. The agent notes that this home is not for children who fall into the category of young offenders but for children who require a secure home background as close as possible to a traditional family.
- 7.3 Fear of crime and the arrangements for the running of the facility have been raised as concerns in the objections. Firstly, the management and regulation of children's homes and child protection is a matter for Ofsted and other government legislation under The Children Act and The Children's Homes and Looked after Children Regulations 2013. The Children's Regulations of 2013 define the qualifications that managers of children's homes and persons working in care roles in children's homes must have, introduce requirements for missing children policy and the need to consult with local services before implementing that policy, as well as providing requirements for an annual risk assessment. The children's home cannot be registered without meeting the minimum requirements. Homes are subject to

biannual inspections by Ofsted. The running of a children's home is therefore adequately covered by other legislation and is not a consideration which should be afforded any weight in the determination of this application.

- 7.4 Fear of increased crime is however capable of being a material planning consideration in determining the planning merits of a scheme. Paragraph 58 of the NPPF states that *"planning policies and decisions should aim to ensure that developments create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion"*.
- 7.5 In considering planning matters, the potential for crime and disorder and the fear of crime must be weighed against the presence of appropriate management. It is considered that the management of the home required by other legislation and the similarity between the previous and proposed uses stated by the government in the Use Classes Order suggest that the proposal should not have an adverse impact on the residential amenity. Nor should the use lead to a fear of crime so great that it would undermine local quality of life and community cohesion. The proposal would not therefore detract from the character of the area and accords with Policy 10 and paragraph 58 of the NPPF.
- 7.6 The proximity of the building and its windows to properties on Cramworth Grove and Hood Street is noted but again this was also the case for the former use. One window in particular overlooks Cramworth Grove and the agent states that the bedroom in question is to be used as a sleep room for staff only and will not be used as a children's bedroom. In addition to this, it has been agreed that the rear window in this room is to be fitted with obscured glazing.

Other Matters

- 7.7 Concerns from objectors that the applicants are not a fit and proper organisation to run such a home are not material considerations for the consideration of a planning application. The planning system considers land-use planning and the nature of the operator, and indeed the suitability of the site in terms of the facilities it provides, is a matter for the commissioners and Ofsted.
- 7.8 Policy H8 of the Local Plan contains criteria for the assessment of *new* residential institutions, including an assessment of existing similar uses and potential saturation. Whilst it is noted that existing institutions mentioned by residents are for adults rather than children, such considerations are not directly relevant here as this is an existing residential care C2 use. Notwithstanding that, the accommodation provides a satisfactory residential environment for the proposed occupants and would not result in an overconcentration of such premises in the immediate area.
- 7.9 Objectors have suggested that Winchester Street is a busy road and dangerous for children. It is noted that there are many residential properties on the street and that it does not have a particularly high accident record.
- 7.10 Objectors have argued that the property has insufficient amenity space for children. Although there are no adopted local planning guidelines for amenity space for care homes, and the property lacks a rear garden, the property has a substantial front garden suitable for children.

8. SUSTAINABILITY / BIODIVERSITY

None.

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.

An application under s73 of the TCPA 1990 requires a local planning authority to consider only the question of the conditions subject to which planning permission should be granted. While it gives rise to new standalone permission it does not give rise to the power to make a fundamental alteration to the original permission. The local planning authority cannot however ignore the wider considerations affecting the grant of permission as a new standalone planning permission would be created by an approval. The application must be determined according to the current development plan and other material considerations.

11 EQUALITY AND DIVERSITY IMPLICATIONS

None.

12 RISK MANAGEMENT ISSUES

None.

13 STRATEGIC PRIORITIES

Improving life chances for young people. Ensuring people are even safer.

14 CRIME AND DISORDER ACT IMPLICATIONS

None.

15 VALUE FOR MONEY

None.

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

1. Application No: 15/03232/PVAR3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NZUX6KLYCB000>

17 Published documents referred to in compiling this report

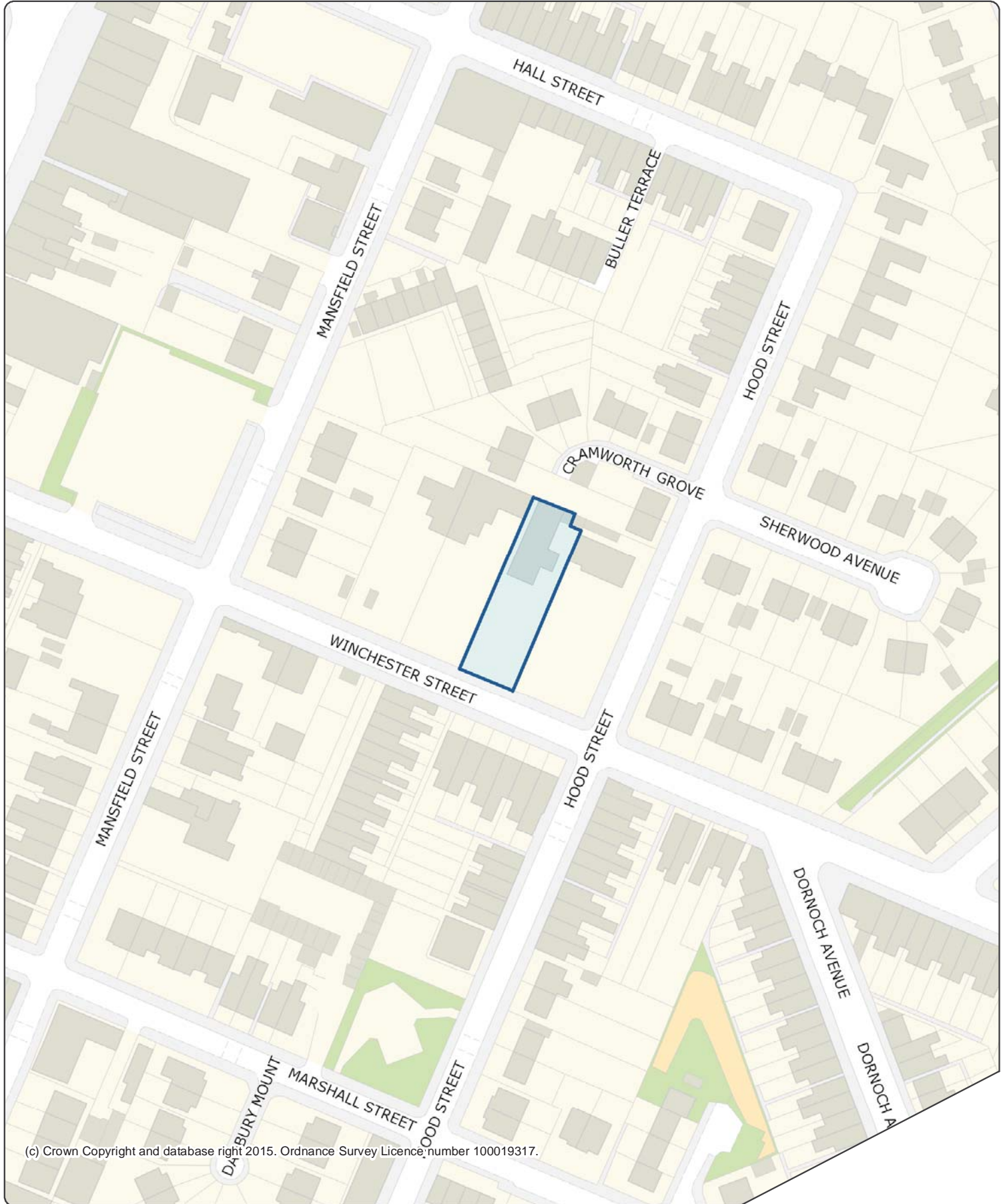
Nottingham Local Plan (November 2005)

Contact Officer:

Mr Phil Shaw, Case Officer, Development Management.

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NOMAD printed map

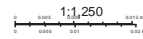


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Key

 City Boundary

Nomad web map printed by a Nomad user at 11:10, 15/03/2016



Description

No map description

My Ref: 15/03232/PVAR3 (PP-04718050)
Your Ref:
Contact: Mr Phil Shaw
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Date of decision:

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

Application No: 15/03232/PVAR3 (PP-04718050)
Application by: Homes2inspire
Location: Wendover House, 15 Winchester Street, Nottingham
Proposal: Variation of condition 3 of planning permission reference 229/7/86 to allow use as a children's care home.

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Pre-commencement conditions

(The conditions in this section require further matters to be submitted to the local planning authority for approval before starting work)

2. The use shall not be commenced until the first floor rear elevation window, as noted on the submitted internal layout plan, has been fitted with obscure glass (level 3 or above). This window shall remain obscurely glazed as long as the use hereby approved continues.

Reason: In the interests of the amenities of neighbouring occupiers in accordance with Policy 10 of the Aligned Core Strategies.

Pre-occupation conditions

(The conditions in this section must be complied with before the development is occupied)

There are no conditions in this section.



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Not for issue

Continued...

Regulatory/ongoing conditions

(Conditions relating to the subsequent use of the development and other regulatory matters)

There are no conditions in this section.

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 following drawings/documents: Planning Layout, received 5 February 2016

Reason: To determine the scope of this permission.

Informatives

1. This permission is valid only for the purposes of Part III of the Town & Country Planning Act 1990. It does not remove the need to obtain any other consents that may be necessary, nor does it imply that such other consents will necessarily be forthcoming. It does not override any restrictions contained in the deeds to the property or the rights of neighbours. You are advised to check what other restrictions there are and what other consents may be needed, for example from the landowner, statutory bodies and neighbours. This permission is not an approval under the Building Regulations.

2. The reason for this decision, and a summary of the policies the local planning authority has had regard to are set out in the committee report, enclosed herewith and forming part of this decision.

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: 15/03232/PVAR3 (PP-04718050)

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.