

## REPORT OF CHIEF PLANNER

### 2 Private Road, Nottingham

#### 1 SUMMARY

Application No: 16/02151/PFUL3 for planning permission

Application by: Mr Andrew Pike

Proposal: Single storey side extension. Increase in number of child places from 47 to 62.

The application is brought back to Planning Committee following a deferral at the January meeting.

#### 2 RECOMMENDATIONS

**GRANT PLANNING PERMISSION** subject to the indicative conditions substantially in the form of those 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 Chief Planner.

#### 3 BACKGROUND

3.1 This application was considered at the January meeting of the Planning Committee, where a decision was deferred to allow Councillors the opportunity to visit the site.

3.2 The details of the proposal, a summary of the consultations and comments received, and an assessment of the merits of the proposals against the policies of the development plan and other material considerations, are set out in the report to the January meeting and Update Sheet, and appended hereto.

3.3 Since the January meeting a highways report has been received, commissioned by the Private Road Members Association (PRMA). The accompanying email notes that many residents felt that the input from the Council's highway officers lacked sufficient rigour. The email also notes that: "It will be of interest to note that, since the planning meeting, the situation at the nursery has been much altered by a number of circumstances, including a ban on staff parking and bussing children in from other sites. The net result is that activity and traffic levels have been reduced almost to zero, even at collection and dropping-off times. Consequently, members of the Planning Committee who may have attended the site will not have been able to judge for themselves the difficulties experienced and expressed in the many objections submitted to the City Council. This is, perhaps, a pity."

3.4 The highways report makes the following conclusions:

- Private Road is not an adopted highway but the planning authority has a duty to regulate conditions on private land, especially those that create dangerous conditions for members of the public, walking, cycling or driving.
- It is a recommended route for cyclists on Nottingham City Council's Cycle Map;
- It is severely substandard in its provision for road users, being 6.4m when it should have a width of 9.5m, leading to pedestrians walking in the road ;
- Visibility is around 5m at the access but splays of at least 25m should be provided;
- The increased travel demand may be relatively modest but due to the substandard conditions there is a real risk of road safety problems being introduced;
- Whilst the plans show three additional spaces, in reality there would be no change;
- The plans do not demonstrate how waste will be handled;
- The increased demand for parent and staff parking will not be catered for. This will lead to parking on Private Road, causing conflicts with existing road users;
- In view of the vulnerability of children attending a nursery, a precautionary approach should be taken;
- More children at the nursery will increase the travel demand and interactions between existing road users will increase;
- Planning policy requires an applicant to demonstrate safe and suitable access for all road users;
- This has not been proven and so the application should be refused on transport grounds.

3.5 Further observations have been sought from the Council's highway officers in response to the contents of the report. They advise:

- The Council's Road Safety team has assessed the planning application and is happy that the proposal (with an increase in child numbers to 70) is safe from a highway perspective.
- The widening of the access to 4.8 metres will improve intervisibility between vehicles and between vehicles and pedestrians. If considered necessary visibility could be increased further by providing an additional 2m x 2m splayed access by splaying the wall.
- The council's Road Safety Team is not aware of any road traffic accidents at this location on Private Road. However, further information is being sought from the Police in this regard and if further information is available an update will be given at the meeting.
- The current planning application is to increase the numbers of children from 47 to 62 – 15 extra children. The nursery is already in operation. The car park has sufficient area for 12 car parking spaces. The Nottingham Emerging Local Plan requires a maximum parking provision of 1 space per 8 children. The 6Cs guidance is a maximum of 1 space per 6 children.

Even on the 6Cs guidance this is a maximum of 10 car parking spaces. For the Emerging Local Plan the maximum parking requirement is 8 spaces. The applicant is actually providing an over provision of parking and as such the parking provision will be acceptable to meet the needs of the nursery.

- Bin storage could be provided on the 'meadow' area (adjacent to the car park) or parking could even be reduced to provide improved accessibility to the bins.

3.6 Further comments from the applicant, in response to the highways report, have also been received:

- The Hollies Day Nursery is a member of the Private Road Members Association, but was not included in or consulted on this report.
- The report does not consider how residents park and use their own vehicles and whether this poses a risk, or delivery drivers who are not associated with the nursery. Other roads in Sherwood suffer from the same issues.
- There are 83 objections however there are only 18 households represented of these objections of the 88 residential properties. A resident has informed the applicant that they have been 'hounded' to join in with the other objectors.
- There is a suggested 15mph speed limit on Private Road.
- The report is incorrect. Government ratios dictate that the number of staff needed for 15 children of pre-school age is 2, (1:8) not 5.
- The nursery has WPL for one member of staff. Others park elsewhere or do not own cars due to low salary levels within the sector.
- CCTV footage is being prepared to demonstrate that the car park is perfectly adequate.
- The existing space for bins is adequate but they can be accommodated elsewhere if necessary.
- There are three other nurseries nearby that have no parking at all, or less than the Hollies.
- There have never been any accidents on Private Road involving parents/children attending the nursery.
- The application will provide 15 more child places for working parents looking forward to taking advantage of the increase in hours free funding from 15 to 30. Numbers will not necessarily increase but current children will attend for longer.

#### **4 CONCLUSION**

It is considered that the overall assessment of the merits of the application remains as set out in the previous report. It is considered that the advice from the Council's Highways team is robust and that, on balance, the original recommendation to grant planning permission remains appropriate.

#### **5 FINANCIAL IMPLICATIONS**

None.

**6 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.

**7 EQUALITY AND DIVERSITY IMPLICATIONS**

None.

**8 RISK MANAGEMENT ISSUES**

None.

**9 STRATEGIC PRIORITIES**

None.

**10 CRIME AND DISORDER ACT IMPLICATIONS**

None.

**11 VALUE FOR MONEY**

None.

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

1. Application No: 16/02151/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=ODMWO8LYIML00>

2. Committee report and update sheet January 2017 and background papers as listed therein.

3. Email from PRMA dated 9/2/17

4. ADC Infrastructure Report dated 8/2/17

5. Further highways comments email dated 10/2/17

6. Email from applicant dated 14/2/2017

**13 Published documents referred to in compiling this report**

Nottingham Local Plan (November 2005)

Aligned Core Strategies (2014)

National Planning Policy Framework (2012)

**Contact Officer:**

Mrs Zoe Kyle, Case Officer, Development Management.

Email: [zoe.kyle@nottinghamcity.gov.uk](mailto:zoe.kyle@nottinghamcity.gov.uk). Telephone: 0115 8764059

# NOMAD printed map



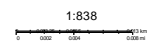
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## Key



City Boundary

Nomad web map printed by a Nomad user at 09:27, 10/01/2017



## Description

No map description

**My Ref:** 16/02151/PFUL3 (PP-05301401)

**Your Ref:**

**Contact:** Mrs Zoe Kyle

**Email:** development.management@nottinghamcity.gov.uk



**Nottingham  
City Council**

Development Management  
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Station Street  
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NG2 3NG

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Mr Andrew Pike  
31 Grange Road  
Nottingham  
NG5 4FU

Date of decision:

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

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Application No: 16/02151/PFUL3 (PP-05301401)  
Application by: Mr Andrew Pike  
Location: 2 Private Road, Nottingham, NG5 4DB  
Proposal: Single storey side extension. Increase in number of child places from 47 to 62.

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

<b>Time limit</b>
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  <i>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.</i>
<b>Pre-commencement conditions</b> (The conditions in this section require further matters to be submitted to the local planning authority for approval before starting work)
2. Notwithstanding the details shown on the submitted plans, the development hereby permitted shall not commence until details of the car park layout, which shall include provision of one disabled parking space, has been submitted to and approved in writing by the Local Planning Authority.  <i>Reason: In the interest of highway safety in accordance with Policy 10 of the Aligned Core Strategy.</i>



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**DRAFT <sup>1</sup> ONLY**  
**Not for issue**

Continued...

3. Notwithstanding the details shown on the approved plans, the development hereby permitted shall not commence until large scale drawings to demonstrate the alterations to the vehicular access, including alterations to the boundary wall and any replacement gates, have been submitted to and approved in writing by the Local Planning Authority.

*Reason: In the interests of highway safety and to protect the character and appearance of the Conservation Area in accordance with Policy 10 of the Aligned Core Strategy and Policy BE12 of the Local Plan.*

4. No equipment, machinery or materials shall be brought onto the site in connection with the development until an arboricultural method statement (AMS) detailing tree protection measures in accordance with BS 5837:2012 [Trees in relation to design, demolition and construction: Recommendations] has been submitted to and approved by the Local Planning Authority. The AMS shall address not only tree protection but also the method of working and the detail of construction within the root protection area (RPA) of retained trees. Tree protection shall remain in place for the duration of the development and shall not be removed until all equipment, machinery and surplus materials have been removed from the site.

*Reason: To ensure that existing trees are safeguarded during construction in accordance with Policy NE5 and NE6 of the Local Plan.*

#### **Pre-occupation conditions**

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

5. Unless the Local Planning Authority has otherwise agreed in writing to the use of alternative materials, the walls of the extension hereby permitted shall be finished with render of a colour and texture to match that used on the walls of the existing building and the roof of the extension hereby permitted shall be constructed from tiles of a colour, size, texture and pattern to match those used on the roof of the existing property.

*Reason: To ensure that the appearance of the development is satisfactory in accordance with Policy 10 of the Aligned Core Strategy.*

#### **Regulatory/ongoing conditions**

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

6. The day nursery, as extended or otherwise, shall not accommodate more than 62 children at any time.

*Reason: To safeguard the amenities of the occupiers of neighbouring properties in accordance with 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 following drawings/documents:  
Drawing reference PLANS AND ELEVATIONS revision amended, received 29 November 2016  
Drawing reference PROPOSED CAR PARK LAYOUT, received 29 November 2016  
Other reference PLANNING STATEMENT, received 29 November 2016

*Reason: To determine the scope of this permission.*

#### **Informatives**



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**Not for issue**

Continued...

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 applicant is advised to contact the Tree Officer, Edmund Hopkins on 0115 8764054 (edmund.hopkins@nottinghamcity.gov.uk) in respect of condition 4.

3. 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: 16/02151/PFUL3 (PP-05301401)

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](http://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.

WARDS AFFECTED: Mapperley

Item No:

**PLANNING COMMITTEE**  
**18th January 2017**

## REPORT OF CHIEF PLANNER

### 2 Private Road, Nottingham

#### **1 SUMMARY**

Application No: 16/02151/PFUL3 for planning permission

Application by: Mr Andrew pike

Proposal: Single storey side extension. Increase in number of child places from 47 to 62.

The application is brought to Committee because it has generated significant public interest that is contrary to officer recommendation.

To meet the Council's Performance Targets this application should have been determined by 14th November 2016

#### **2 RECOMMENDATIONS**

**GRANT PLANNING PERMISSION** subject to the indicative conditions substantially in the form of those 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 Chief Planner.

#### **3 BACKGROUND**

- 3.1 2 Private Road is a detached property located on a corner plot at the junction of Private Road and Mansfield Road. The property is currently in use as a day nursery and has associated car parking to the rear. The property falls within the Mapperley Park/Alexandra Park Conservation Area. There are a number of mature trees within the site. The site is enclosed by a brick wall along the Private Road and Mansfield Road frontages.
- 3.2 Planning permission was initially granted in June 1992 for a change of use of the property from flats to a private day nursery, including a series of alterations and extensions (Ref. 92/01372/PFUL3). A condition was imposed upon the permission restricting the number of children within the nursery to 25. An application to vary this condition and increase the number of children from 25 to 31 was approved in January 1997 (Ref. 96/01610/PVAR3). A further application to increase the number of children to 40 was refused in February 1998 (Ref. 97/01665/PVAR3) but was allowed on appeal. In 2008 permission was granted for a further increase in the number of children from 40 to 47 (Ref. 08/03643/PVAR3). Permission was granted in 2010 for single storey extensions to the building (Ref. 10/04015/PFUL3). The extensions have been completed and are occupied.

## **4 DETAILS OF THE PROPOSAL**

- 4.1 The application seeks permission for a single storey extension to the north side of the building, in front of the existing side extension. The extension would facilitate an enlargement and reconfiguration of existing facilities. The proposal also includes an increase in the number of child places available at the nursery. The original proposal sought an increase from 47 to 70 places. Following negotiations, this has been reduced to 62 places.
- 4.2 The proposals also include alterations to the car park layout and the widening of the vehicular access into the site off Private Road.

## **5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS**

### **Adjoining occupiers consulted:**

43 addresses were consulted on 11.10.16 as follows;

1, (rooms 1-8 and flats 1 and 2), 1A, 3 (flats 1-4), 4, 30 (flats 1 and 2) 30 Private Road  
476, 476A, 478, Grange Dental Clinic 480A Mansfield Road  
Flats 1-16, Warwick Mount, Mansfield Road  
Flats 1-12, Warwick Towers, Mansfield Road  
Sherwood Methodist Church, Devon Drive

A site notice was posted on 20.10.16 and a press advertisement was published on 19.10.16.

Neighbours were re-notified on 30.11.16 following receipt of further information in support of the application. Letters were sent to the following addresses in addition to the above, following receipt of initial representations from occupiers of these properties;

1, 14 and 22 Victoria Crescent  
6, 10, 18, 18A, 19, 20, 20A, 21A, 22, 39, The Lanterns (42) and 48 Private Road  
1-3 Yew Close

76 representations via letter, email and on-line comment, were received in relation to the application, raising the following objections to the proposed development:

- An increase in the number of vehicles will cause further obstruction and congestion on Private Road, which due to its narrow width, already experiences bottlenecks with cars entering from Mansfield Road.
- Access to the site is already dangerous due to the narrow opening
- The proposals will increase the risk to pedestrian safety
- The increase in car parking spaces is not proportionate to the proposed increase in child places
- Commercial waste collections, once a week, impact on the residential area. An increase will exacerbate this
- The additional children will result in increased noise and disturbance for residential occupiers
- Increased activity on Private Road will impede upon other residents' right to free passage along Private Road
- The use is not sustainable or appropriate within a Conservation Area

- The road is un-adopted and as such residents are responsible for maintenance. Over- usage by the nursery impacts on other residents
- Users of the nursery park inconsiderately on Private Road, blocking access to neighbouring residential properties
- The increased car usage will impact on air quality
- The proposal will devalue property in the area
- Consultation in the local community should be wider
- The boundary wall on private Road is dangerous
- The extension would be detrimental to the appearance of the building
- Planning department are insensitive to commercial operations on Private Road e.g. Children's home
- Previous applications have been refused due to impact on the highway
- The original plans were poor
- The car park layout is poor and not operational
- Statements about staff parking are only recently found to be true, following the submission of the application. What is to stop them parking on the street again after the application has been determined.
- The information submitted with the application in relation to awards and government funding is not relevant.
- The nursery should be sited in an area which is accessible to its users on foot.

**Additional consultation letters sent to:**

**Pollution Control:** No objection.

**Highways:** No objection. It is important to note that Private Road is just that, private. Nottingham City Council does not have any control over Private Road. As such we can only object to this proposal if it was felt that the extension of the nursery was having a detrimental impact on the nearest public highway, being Mansfield Road. This proposal will not have a detrimental impact on the **public** highway.

Whilst the increase in child places at the Hollies Day Nursery raises no objections from a highways perspective, it is important to ensure that the car park operates satisfactorily in the interests of highway safety. The proposal to increase the size of the vehicular access point to the nurseries car park to 4.8 metres is welcomed as it will allow accessing and egressing vehicles to pass at the entry point and prevent vehicles having to wait on the highway until the access point is clear. The car park layout is considered to be satisfactory but it will be necessary to provide one disabled parking space and a condition to secure this is therefore recommended. The applicant has submitted a Travel Plan to indicate the travel choices of existing staff and parents and a survey of the number of vehicles in the car park at the busiest periods of the day. Based upon this information, it is accepted that the car park can accommodate all vehicles associated with the nursery even with the extension to the nursery.

**Conservation and Urban Design:** No objection. The scale, form and use of materials to match are such that the extension would have a minimal impact, both on the host building and the special character of the Conservation Area.

**Tree Officer:** No objection. A condition requiring the submission of an Arboricultural Method Statement is recommended.

## **6 RELEVANT POLICIES AND GUIDANCE**

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

The NPPF advises that there is a presumption in favour of sustainable development and that development which is sustainable should be approved. Paragraph 17 of the NPPF lists the core planning principles that should underpin decision taken on planning applications. Of particular relevance to this application is the need to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, and to contribute to conserving and enhancing the natural environment and support the transition to a low carbon future.

Section 12 of the NPPF relates to the conservation and enhancement of the historic environment. Paragraph 131 of the NPPF advises that, in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

### **Aligned Core Strategy**

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 1: Climate Change

Policy 10: Design and Enhancing Local Identity

### **Nottingham Local Plan (November 2005):**

BE12 - Development in Conservation Areas. Seeks to preserve or enhance the character and/or appearance of conservation areas.

NE5 - Trees. Seeks to protect existing trees and secure additional planting by the imposition of planning conditions or through planning obligations.

T3 - Car, Cycle and Servicing Parking. Seeks to minimise car parking levels on new development sites subject to criteria on neighbour amenity, public transport provision, generation of extra traffic, land use and likely levels of car ownership.

CE1 - Community Facilities. Allows for new or improved community facilities where they would be easily accessible by a choice of means of transport, where they are well located to the community they serve or within centres, where they are compatible with adjacent uses, where they would not cause congestion or adversely affect residential amenity.

## **7. APPRAISAL OF PROPOSED DEVELOPMENT**

### **Main Issues**

- (i) Impact on the character and appearance of the Mapperley Park/Alexandra Park Conservation Area
- (ii) Impact on residential amenity
- (iii) Impact on highway and pedestrian safety
- (iv) Parking
- (v) Impact on trees

### **Issue (i) Impact on the character and appearance of the Mapperley Park/Alexandra Park Conservation Area (Section 12 of the NPPF and Policy BE12)**

- 7.1 Policy BE12 seeks to ensure that new development preserves or enhances the character or appearance of conservation areas. The existing building at 2 Private Road is a 19<sup>th</sup> century detached villa that has been altered and extended a number of times to provide additional floorspace. The most significant elevation faces west onto Mansfield Road and has essentially retained its historic form. The proposed extension is a small single storey addition with a lean-to roof which would be seen immediately to the left of the principal elevation and would run across the north elevation. Its scale, form and use of materials to match are such that it would have a minimal impact, both on the host building and the special character of the Conservation Area. It is therefore felt that the proposed extension would comply with policy BE12 of the Nottingham Local Plan and section 12 of the NPPF.
- 7.2 As the day nursery is an established commercial use, it is not considered that the proposals to increase the number of child places, would have any significant additional impact upon the character of the Mapperley Park/Alexandra Park Conservation Area, particularly given the presence of a further commercial use (Dental Clinic) on the opposite corner of Private Road and Mansfield Road.

### **Issue (ii) Impact upon residential amenity (Policy 10 of the ACS)**

- 7.3 Concerns have been raised by neighbouring residents regarding the proposed increase in the number of child places. The original increase to 70 places was felt to be over-intensive, particularly when considering the smaller, incremental increases in the size of the nursery over the last 20 years or so. Taking account of the concerns raised by residents, a smaller increase was negotiated with the applicants and a total of 62 places is now proposed, representing a 32% increase overall. Whilst the proposed addition of a further 15 child places will result in some increase in comings and goings to and from the property, the nature of the operations of a day nursery is such that they do not have a fixed start and finish time. The arrivals and departures from the nursery would therefore be staggered within drop-off and collection windows of approximately 2 hours. As such, it is not considered that the consequential impacts upon neighbouring residential occupiers would be significantly greater than the existing situation. A condition to restrict child places to 62 is recommended as it is considered that any further increase in numbers could have a material impact upon the amenities of neighbouring occupiers and upon traffic and parking
- 7.4 The proposal also includes the provision of an extension to the property which would provide additional space for the extra children. The property has substantial

outdoor play space to the front of the building, on the Mansfield Road frontage. Given the location of the property on the corner of Private Road and Mansfield Road, which is a main arterial route into the city, a level of background noise during the daytime is to be expected. As such, it is not considered that the increase in child places would result in significant additional noise and disturbance for neighbouring residential occupiers.

- 7.5 The proposed extension would be single storey and in keeping with the height of the existing single storey extensions to the side of the property. Given its location within the site, it is not considered that it would have any detrimental impact upon neighbouring properties in terms of overbearing impact or impact upon light.
- 7.6 Residents are concerned that the proposed increase will result in more waste and more waste collections. They state that the nursery already have a weekly commercial waste collection which is more frequent than the fortnightly domestic collections. Whilst an increase in numbers may result in some additional waste, it is not anticipated that this will warrant any further waste collections. A weekly commercial waste collection is considered to be reasonable in a residential area. In view of the above it is considered that the proposed development would comply with policy CE1 of the Local Plan and Policy 10 of the Aligned Core Strategy.

### **Issue (iii) Impact upon highway and pedestrian safety (Policy 10 of the ACS)**

- 7.7 Private Road is un-adopted and is maintained at the expense of the residents of Private Road. As such, the Highway Authority does not have control over the road. Notwithstanding this, the Highway Authority still has a duty to consider highway and pedestrian safety. The majority of objections received in relation to the proposed development relate primarily to impact upon the traffic and congestion on Private Road, claiming that the existing situation is poor and will only be exacerbated by the proposals. One of the main contributing factors to this is the narrow access into the site, which means that cars cannot enter and egress the site simultaneously.
- 7.8 In response to these concerns, the applicant has put forward proposals to increase the width of the vehicular access to 4.8m to allow simultaneous entry and egress. Taking account of this and the lesser increase in child numbers which is now proposed, it is not considered that the proposed development would have any significant additional impact upon highway safety. The widening of the access would also provide greater visibility for pedestrians accessing or exiting the site. Given the narrow width of Private Road and the location of the site on a corner, vehicles generally, do not approach the site at great speed. As such, it is not considered that the proposal would significantly increase the risk to pedestrian safety.
- 7.9 The applicant has provided data in relation to the travel methods of its customers. Whilst the majority do arrive by car, some do use public transport and arrive on foot. A recent Officer observation of the site during the peak drop off period has confirmed this to be accurate. As such, whilst the number of child places will increase, this is unlikely to translate to an equivalent increase in the number of vehicles arriving at the site. Similarly, additional nursery places may be taken up by siblings of children who already attend the nursery.
- 7.10 In view of the above, whilst it is acknowledged that the proposals may have some impact upon the number of cars arriving at the site during peak drop-off and collection times, it is felt that the lesser increase to 15 additional places will go

some way to overcoming residents concerned. The proposed works to improve the site access will also address current problems of congestion on Private Road. As such, the proposal is considered to comply with Policy 10 of the Aligned Core Strategy. A condition to control the details of the widening of the access is recommended.

- 7.11 One resident has raised concern that the proposal would reduce air quality in the area due to increased traffic. As discussed above, the increase in traffic to the site is unlikely to be so significant as to have a significant and material impact upon the air quality on Private Road.

#### **Issue (iv) Parking (Policy T3 of the Local Plan)**

- 7.12 A revised parking layout has been submitted. Local residents are concerns that the number of additional spaces to be provided (3) is not proportionate in percentage terms to the increase in number of children. Firstly, the number of additional child places has been reduced since consultation with residents were carried out, taking the percentage increase down to 32%. Residents have quoted the percentage increase in car parking spaces as 25%. Given that evidence has been provided by the applicant to demonstrate that not all children arrive at the nursery by car, the level of parking proposed is sufficient.
- 7.13 Highway Officers have noted that none of the car parking spaces are appropriate for use by disabled persons. A minimum of 1 car parking space should be provided for disabled parking and marked out accordingly. A condition to secure this is recommended. Highway Officers have confirmed that the car park has been laid out appropriately to allow vehicles to access and egress all spaces safely.
- 7.14 Some concern has been raised in relation to the shortage of spaces in the car park due to staff parking and in relation to users of the nursery parking in the street. The applicant has submitted a Travel Plan to indicate the travel choices of existing staff and parents and a survey of the number of vehicles in the car park at the busiest periods of the day. Provided this is a true reflection of the travel choices and times of travel of the staff and parents of the nursery, then it is accepted that the car park can accommodate all vehicles associated with the nursery even with the extension to the nursery. Residents are also concerned that staff have changed their parking habits since the submission of the application, now parking away from the site or arriving on foot in order to mask problems. The changes are considered to be positive and any future deviation from the current arrangement cannot be speculated.

#### **Issue (v) Impact on Trees (Policy NE5 of the Local Plan)**

- 7.15 The proposal would not result in any direct harm to trees within the site. A condition requiring the submission of an Arboricultural Method Statement is recommended to ensure that trees will be adequately protected throughout the development.

#### **Other Matters**

- 7.16 Residents have raised concern in relation to the impact upon property value. This is not a material planning consideration and as such cannot be afforded weight in the determination of this application. Some residents also feel that the extent of consultation on this application was not sufficient. Consultation was carried in line with statutory requirements for development in a Conservation Area; immediate



neighbours were notified, a site notice was displayed on Private Road and the application was advertised in the local press. Further letters were sent to anyone who had registered interest in the application initially, following receipt of additional information. Consultation deadlines were also extended to allow more time for residents to respond. It is felt that the consultation carried out is sufficient.

- 7.17 The boundary wall on Private Road is of concern to a number of local residents. The Dangerous Structures team within the Council were contacted when this issue was first raised during the consultation process and an inspection of the wall was carried out by engineers. Engineers concluded that the wall is partly retaining and in a poor condition, with eroded brickwork, but appears to be in a stable condition. Action can only be taken if the condition of the wall is such that it represents a danger to the general public. Engineers have advised that they will continue to carry out regular inspections of the wall when in the area.
- 7.18 One resident referenced a children's home on Private Road and the Council's approach to commercial development on Private Road. The Children's home in question did not require planning permission. Irrespective of this, the application site is an established day nursery and the Local Planning Authority is required to assess the proposed development on its own merits.
- 7.19 Finally, concerns have been raised by residents in relation to additional information submitted by the applicant including details of awards and government policy. These documents have been submitted to support the application as a means of justification for the increased numbers. However, the application has been considered against National and Local Planning Policy only, in addition to any other materials considerations. The policy in relation to childcare provision has not informed this recommendation.

## **8. SUSTAINABILITY / BIODIVERSITY**

Whilst no specific features have been highlighted in the planning application, the building would need to incorporate appropriate energy/water conservation measures in order to comply with current Building Regulations. It is considered that this is sufficient to satisfy the requirements of Policy 1.

## **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**

Working Nottingham: Opportunity to secure training and employment for local citizens through the construction and operation of the development.

**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: 16/02151/PFUL3 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=ODMWO8LYIML00>

2. Conservation Officer comments dated 10.11.16

3. Highway Officer comments dated 19.12.16

4. 1 x representation received 22.10.16

5. 5 x representations received 27.10.16

6. 4 x representations received 31.10.16

7. 3 x representations received 1.11.16

8. 1 x representation received 2.11.16

9. 1 x representation received 3.11.16

10. 2 x representations received 4.11.16

11. 7 x representations received 7.11.16

12. 3 x representations received 8.11.16

13. 3 x representations received 9.11.16

14. 2 x representations received 14.11.16

15. 3 x representations received 17.11.16

16. 2 x representations received 30.11.16

17. 1 x representation received 5.12.16

18. 1 x representation received 8.12.16

19. 2 x representations received 10.12.16

20. 6 x representations received 12.12.16

21. 1 x representation received 13.12.16

22. 3 x representations received 14.12.16

23. 1 representation received 15.12.16

24. 21 x representations received 19.12.16

25. 2 x representations received 21.12.16

26. 1 x representation received 23.12.16

**17 Published documents referred to in compiling this report**

Nottingham Local Plan (November 2005)

Aligned Core Strategies (2014)

National Planning Policy Framework (2012)

**Contact Officer:**

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## PLANNING COMMITTEE

### UPDATE SHEET

(List of additional information, amendments and changes to items since publication of the agenda)

18 January 2017

#### **4b 2 Private Road**

1. A further 7 written representations expressing objections to the proposed development have been received. The reasons for objection are as follows:
  - The development would be out of keeping with the conservation area, and demolition of walls is contrary to the conservation area management plan
  - The increased no. of vehicles accessing 2 Private Road would pose a serious risk to the safety of pedestrians and cyclists. The likelihood of a fatal accident would be significantly increased
  - Private Road has been designated as a cycling 'safe route'. The proposal would pose a threat to the safety of all road users
  - The single entry and exit would reduce visibility for cyclists
  - Obstructions caused by vehicles turning into the site could back up onto Mansfield Road
  - Inconsiderate parking on Private Road by users of the day nursery poses a hazard to cyclists
  - The residents of Private Road, Victoria Crescent, Yew Close and Fairlawn Place have rights to safe passage along their private roads
  - The applicant has not made any attempt to consult with residents of Private Road and has not complied with 'Development in Private Roads: A code of Practice'. He does not have automatic rights of way.
  - Driving in a private road without a sufficient right of way is an offence under s. 34 of the Road Traffic Act 1988.
  - The Council should impose condition should planning permission be granted requiring the applicant to repair any damage caused to Private Road

One representation providing general observations about the development has also been received. The observations are as follows:

- Overall, there is no demonstrable evidence to suggest the proposal should be refused. However, the permission could be improved;
- The Highway Authority has a duty to consider highway safety. The car park should be reconfigured to allow 12 spaces, including a disabled space. The layout should demonstrate a designated area for bin storage within this
- It needs to be established that the widening of the access can be accommodated. Could this be agreed before permission is granted.
- The applicant states that staff won't park here. This would be difficult to enforce but signs could be displayed in some spaces to read 'drop off and visitor parking only'.

Finally, two representations in response to some of the points of objection that have been raised, has been received from the applicant:

- The nursery car has been parked outside the Methodist church as the nursery have had Christmas carol concerts with Toddlers and Preschool children in their hall. Parents and carers do not park on Private road as there is always space in the car park.
- The submitted plans are accurate
- 60% of the objections appear to be a duplicate of one letter.
- The mini bus is used to transport children for woodland activities at Bestwood Country Park. It is used on a three week rota, taking children from the Private Road site, three times, once every 3 weeks. The mini bus is stored at all other times, at the applicant's own home.
- The bins are currently stored within the car park.

## Comments

***Issues relating to highway safety, including that of pedestrians and cyclists, have been addressed within the main report.***

***With regard to the demolition of walls within the conservation area, the management plan states:***

***'12.3 In view of their overall visual contribution to the Conservation Area, the Council will resist the demolition of any historic Bulwell stone or brick boundary walls.***

***12.4 In new development proposals, where alterations to any existing boundary walls are shown to be necessary, such as to form a new vehicular access, the Council will expect that any works will be limited to the minimum necessary and that any new openings are defined by gate piers.'***

***It is considered that paragraph 12.3 is intended to address the threat to the character of the area from total demolition of significant the proposed alterations fall within the scope of paragraph 12.4. Subject to satisfactory details, the widened access can be accommodated without harm to the character and appearance of the conservation area. It is considered reasonable that these details can be agreed by condition.***

***The Highway Officer has considered the proposals alongside the Road Safety Officer and the view remains that the proposed development would not have any significant impact upon highway safety. The car park The size of the car park proposed is acceptable for the number of children that would attend the nursery. The Emerging Local Plan states that a nursery should have a maximum off-street parking provision of 1 space per 8 children which for 70 children is 9 spaces. Providing 12 spaces in the car park for 62 places is therefore considered acceptable.***

***The Development code to which the objections refer has no legislative force. It is there as a guide for the purposes of assisting residents and developers and does not relate to instances of changes in the level of use where rights of access are already established.***

**Section 34 of the Road Traffic Act 1988 relates to offences on land that are not roads. In relation to England and Wales, 'road' means any highway and any other road to which the public has access. The public have access to Private Road. It is well established in law that reasonable access rights would be a perfectly valid defence to an alleged offence of damage to the highway by use of vehicles gaining access. Furthermore Highways have concluded that what limited increase in traffic there would be due to the rise in numbers of places would have no discernible effect on the highway. As such it would not be justifiable or reasonable to impose a condition requiring the applicant make good the highway.**

**The widening of the car park access will allow two vehicles to access and egress the car park at the same time and is welcomed. The car park is set out satisfactorily and has sufficient turning facilities for cars to enter and leave in a forward gear. There is no evidence to suggest that the proposals to widen the access could not be achieved and in fact the access appears to have been narrowed at some point in the past. In addition to the condition requiring details of how this will be achieved, a further condition which restricts the number of children within the nursery to 47 until such a time that the access has been widened in accordance with the approved details, is recommended.**

**The existing condition relating to the car park layout should be re-worded to include specific reference to a requirement for designated area for bin storage and a scheme of signage to aid in the effective management of the car park as follows;**

**Notwithstanding the details shown on the submitted plans, the development hereby permitted shall not commence until details of the car park layout, which shall include provision of one disabled parking space, a designated area for bin storage and a scheme of signage to assist in the effective management of the car park, has been submitted to and approved in writing by the Local Planning Authority.**

**The comments received from the applicant are noted.**

(Additional Background papers:

1. Letter from local resident dated 9.1.17
2. 2 x Emails from local resident dated 12.1.17
3. Email from interested party dated 12.1.17
4. Email from applicant dated 12.1.17
5. Email from applicant dated 13.1.17
6. 3 x letters from local residents dated 16.1.17
7. Email from local resident dated 17.1.17)

## Appendix to item 4b

**From: The Chairman, Private Road Members Association**

**To: Members of the Nottingham City Council Planning Committee**

18 January 2017

Application 16/02151/PFUL3

Dear Councillor,

I would like to be able to address the Committee in person, but as this is not permitted, I am writing my final submission which I ask you to consider. At this late stage, you will have had the opportunity to see the large amount of correspondence, interest and anxiety generated by the above proposal. I am suggesting to you, today, that you may not be in a position to make a properly informed and reasonable decision in this case unless you insist on a site visit to see the actual situation in Private Road for yourself.

If you have had time to read the letters of objection, you may be struck by the curious differences between the statements in the Chief Planner's report before you and the carefully expressed views, observations and experience of the residents and of the Private Road Members Association, of which I am the elected Chairman.

May I tell you that, in the twenty-one years I have lived in the road, the fifteen years that I have been a member of the PRMA Executive Committee and the two years that I have been Chairman, I have not known an issue cause so much widespread concern, dismay or worry. These concerns were magnified when the Planner's report was published and people realised their fears. There is a commonly-held feeling that, although it may not be true, the City Council simply does not listen to people. The standard response to a letter of objection is: "I cannot respond on specific matters, but I can assure you that your comments will be taken into account when the application is determined." This statement does not engender confidence and, unfortunately, the discrepancy between our letters and the information contained in the report is, in parts, quite striking. This is very worrying and makes individuals question if their responses were worth making at all.

Two particular aspects illustrate the point. Firstly, the "agreement" by the applicant to reduce to 62 from 70 the number of children who may be accommodated at the nursery does not, in any way, lessen the dangers implicit in any expansion, nor the adverse effect on the character and amenity of the conservation area. Secondly, the input of highways to the report, on the one hand appearing to wash their hands of any problems, and on the other, welcoming the intention to provide a wider opening and insist on the provision of a disabled parking space, is woefully inadequate.

To an outsider, it might seem that this planning issue is a simple one; but it isn't. There are some fundamental facts that must be appreciated. The nursery exists within a conservation area, with access from an unadopted, narrow, private road which is collectively owned by the residents. The nursery's owners, staff and customers are not residents. It may be that an application to establish a nursery in its current location would not be allowed today, but we understand that the nursery does exist and we accept that. However, its activities do cause and have caused problems, largely related to inconsiderate parking, traffic congestion and safety. Residents have had to cope with these difficulties, but all are agreed that the increase in numbers is potentially very unsafe, not reasonable and totally out of keeping with the location of the nursery in the conservation area.

You have the opportunity today to defer a decision until you can make a site visit. This would enable you to establish for yourself the limitations of the site and its location in Private Road and the real potential for a serious accident were the application ever to be granted approval. Please take this opportunity.

Glyn Archer

Chairman

Private Road Members Association