

# PLANNING COMMITTEE

## UPDATE SHEET

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

18 January 2017

### 4a Hicking Pentecost

1. As a S73 variation of condition application the applicant will have 3 years to implement this permission. The standard condition regarding this has therefore been added to the decision notice.
2. The application as submitted proposed that the condition relating to flood risk would have required that all dwellings would be constructed in accordance with the recommendations of the Flood Risk Assessment. The Environment Agency (EA) had concerns about this approach and recommended that the internal finished floor level should be set no lower than 26.0m AOD. This figure was based upon a new figure for a 1 in 100 year plus climate change 'breach' flood level of 25.7m AOD (i.e. 300mm above 25.7m AOD).

This issue has been further considered and additional information has now been submitted in order to address the concerns of the EA. It is proposed that the internal finished floor level of any of the ground floor units would not be less than 25.40m AOD and also that up to 600mm of flood resilience measures would be provided to provide flood protection to a level of 26.00m AOD. This does not fully address the requirements of the EA but to further increase the internal finished floor levels would present a significant issue to the deliverability of the scheme, which is based upon floor levels set to suit the adjacent highway, where there are level access requirements to be considered. It is therefore considered that the combination of the minimum internal finished floor level and flood resilience measures now proposed is a pragmatic response to the EA's concerns. This is particularly the case given the following:

- the site falls in a Flood Zone 2 for which the flood risk is 1in1000 years
- the requested flood protection is to address a 'breach' scenario, ie. in the event of the flood protection measures constructed by the EA failing
- Of the 350 apartments in the development, 21 are at ground-floor level. Of these, only 10 need a varying degree of stepped or ramped treatment to achieve a FFL of 25.40m AOD. All would have additional flood resilience measures to a height of 26.00m AOD

The following condition is recommended to secure the above:

*"The internal finished floor levels of dwellings shall be no lower than 25.40m AOD with flood resilience measures to 26.00m AOD in accordance with details to be submitted to and approved in writing by the Local Planning Authority".*

3. The applicant has agreed to install four electric car charging points within the undercroft car park. An additional condition is proposed to secure this.

#### **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