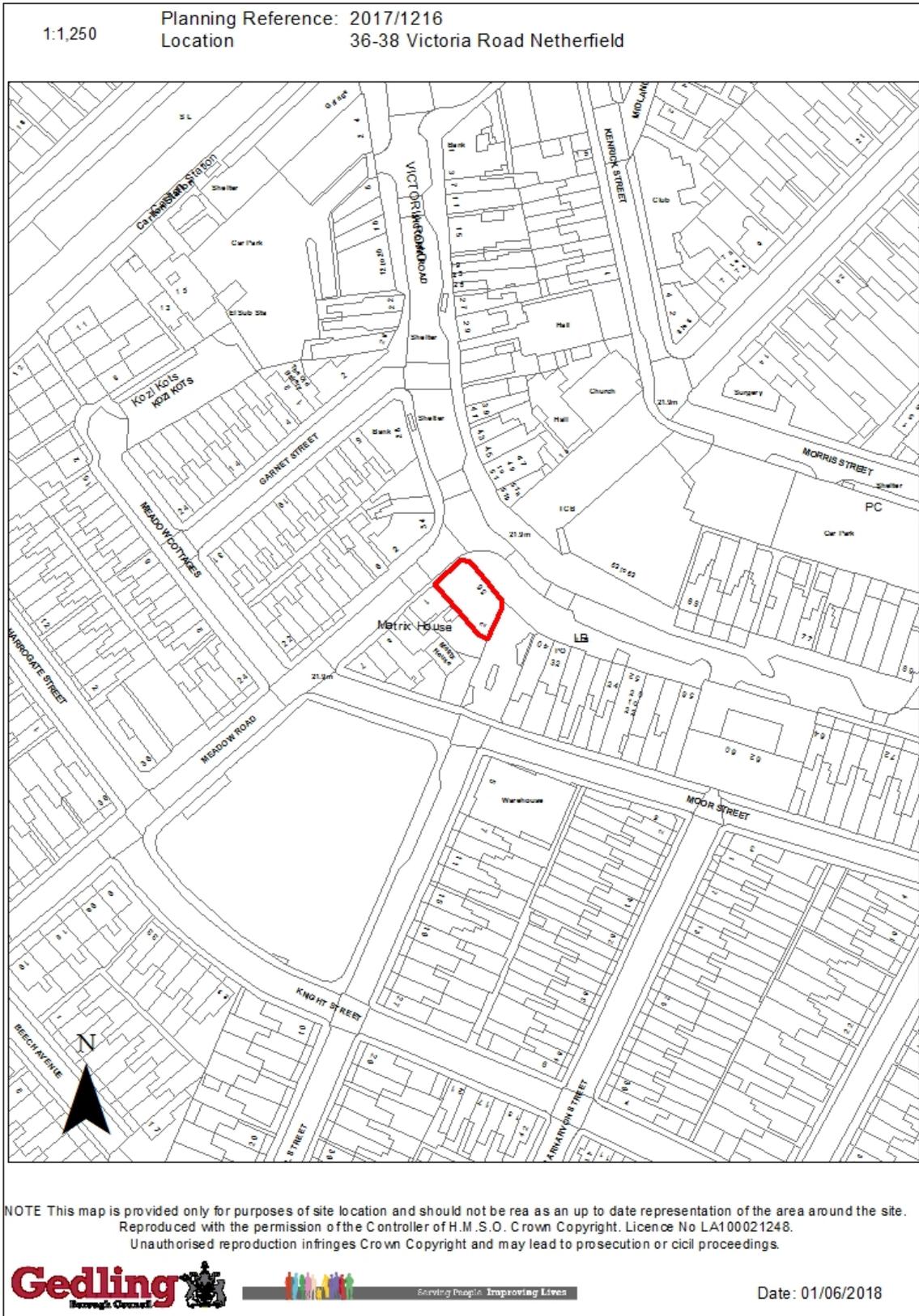


## Planning Report for 2017/1216



## Report to Planning Committee

<b>Application Number:</b>	<b>2017/1216</b>
<b>Location:</b>	<b>36 - 38 Victoria Road Netherfield Nottinghamshire NG4 2HE</b>
<b>Proposal:</b>	<b>Ground floor change of use from a restaurant (Use Class A3) to a 9 bedroomed HMO (Use Class Sui Generis)</b>
<b>Applicant:</b>	<b>Ms Fariba Sezavar</b>
<b>Agent:</b>	<b>JLK Architects</b>
<b>Case Officer:</b>	<b>Graham Wraight</b>

**This application is referred to Planning Committee at the request of the Planning Delegation Panel.**

### **1.0 Site Description**

The application site relates to the ground floor of 36-38, Victoria Road, Netherfield, a three storey property situated within the designated shopping area for Netherfield. The ground floor of the premises is currently vacant but was last used as a restaurant. The first floor comprises a six bedroom house in multiple occupation and the second floor is in use as a three bedroom apartment.

### **2.0 Relevant Planning History**

None.

### **3.0 Proposed Development**

- 3.1 Planning permission is sought for the change of use of the ground floor of the premises from a restaurant, falling within a Class A3 (Restaurant and Café) use to a nine bedroom house of multiple occupation, falling within a Sui Generis use class.
- 3.2 Two car parking spaces are proposed to be provided to the rear of the premises within the existing parking area.
- 3.3 External alterations are proposed to the premises in order to accommodate the proposed use of the premises as a house in multiple occupation.
- 3.4 A Flood Risk Assessment has been submitted with the application.

## **4.0 Consultations**

- 4.1 NCC Highway Authority – the application site is situated within the centre of Netherfield with bus stops adjacent to the site, together with two train stations within easy walking distance. Two car parking spaces alone are proposed to serve the proposal.

The lack of car parking is not a road safety concern, however the residents and their visitors may cause inconvenience to the existing residents and their visitors who also have a current demand for parking in the area.

The Highway Authority raises no objections to the proposal.

- 4.2 Environment Agency – no objections but must be carried out in accordance with the Flood Risk Assessment.

- 4.3 Local residents have been notified by letter and a site notice has been posted. One letter of representation as a result, the contents of which are summarised below:

- Antisocial behaviour.
- Whilst there is a lack of affordable housing, that is not reason to accommodate people in small homes.
- Whilst there are nine bedrooms there could be more occupants as partners, children etc. could be accommodated.
- Two bathrooms and two toilets seem inadequate to serve the accommodation.
- Concern that more rooms could be added without permission and there is space to do this.
- The two car parking spaces are inaccessible as there are bollards restricting access into the pedestrianised area adjacent to the site.
- There isn't a laundry room, drying of washing on radiators could result in health issues.
- Lack of parking and high demand for parking in the area.
- The site is situated in an area at risk of flooding.
- Concerns that the wiring of the building is not adequate.
- Overcrowding of the building.
- Concerns are raised in respect to fire issues to the building opposite.
- The proposal does not accord with the Council's ethics.

## **5.0 Assessment of Planning Considerations**

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that: 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless other material considerations indicate otherwise'.

- 5.2 The most relevant national planning policy guidance in the determination of this application are contained within the National Planning Policy Framework (NPPF) (March 2012) and the additional information provided in the National Planning Practice Guidance (NPPG).

## **6.0 Development Plan Policies**

6.1 The following policies are relevant to the application:

6.2 National Planning Policy Framework:

Part 2 – Ensuring the vitality of town centres

Part 6 – Delivering a wide choice of high quality homes

Part 7 – Requiring good design

Part 10 – Meeting the challenge of climate change, flooding and coastal change

6.3 Gedling Borough Council Aligned Core Strategy 2014:

Policy 1 – Climate Change

Policy 6 – Role of Town and Local Centres

Policy 8 – Housing Size, Mix and Choice

Policy 10 – Design and Enhancing Local Identity

6.4 Gedling Borough Council Replacement Local Plan (Saved Policies 2014):

ENV1 – Development Criteria

S2 – Non Retail Uses in District Shopping Centres

S9 – Netherfield

H14 – Houses in Multiple Occupation

6.5 In respect to car parking, regard should be had to the Borough Council's Supplementary Planning Document 'Parking Provision for Residential Developments' (May 2012).

6.6 Most recently, the Local Planning Document Publication Draft (LPD) has been in preparation, published and subject to examination. Paragraph 216 of the NPPF sets out that from the day of publication, weight may be given to relevant policies in emerging plans depending on how advanced the Plan is and whether there are extant objections. At the present time, it is considered that the following LPD policies are relevant and may be given appropriate weight if there are no unresolved objections:

LPD32 – Amenity (moderate weight)

LPD49 – Development within Town and Local Centres (limited weight)

LPD 3 – Managing Flood Risk (moderate weight)

## **7.0 Planning Considerations**

7.1 The main considerations in the determination of this application are whether the proposal is appropriate development in this town centre location, the impact on neighbouring properties and the area in general and whether there are any highway safety implications arising. The flood risk issues affecting the site also need to be assessed.

## 7.2 Principle of the development

The property is located with the Netherfield local centre and was most recently used as a restaurant under planning use class A3. Monitoring undertaken by Planning Policy demonstrates that the property was occupied during the years 2013 to 2017 but that it was vacant in January 2018. The property is prominently located within the central part of the local centre and forms a focal point within the surrounding street scene, at the junction between the two main shopping streets.

- 7.3 Saved Local Plan Policy S2 states that in district centres proposals for changes of use for non-A1 uses will be permitted provided that they do not create an unacceptable grouping of 4 or more non-A1 retail units and/or result in the proportion of non-A1 retail uses exceeding 35% of the frontage of the shopping centre. Saved Local Plan Policy S9 states that within Netherfield District Centre planning permission will be granted for non-A1 retail uses, including residential use. The text accompanying this policy advises that the need to put vacant units back into use will in some cases override policy S2. Emerging Local Plan Policy LPD49 sets out a number of criteria that must be met including that the percentage of other (non A uses) must not be more than 10% and that there must not be an unacceptable grouping of non-A1 uses.
- 7.4 Based on the most recent monitoring of the local centre which took place on 20<sup>th</sup> January 2018, the percentage of non-A1 frontages in the Netherfield Local Centre is 68% which is well above the thresholds set out in Saved Local Plan Policy S2 and emerging Local Plan Policy LPD49. Furthermore, the property sits adjacent to units that are not in A1 use and therefore the criteria of these policies relating the grouping of non-A1 uses would also not be met. With respect to Saved Local Plan Policy S9, whilst this does allow for residential uses with the local centre in the interests of bringing vacant units back into use, in this instance the property has not been vacant when monitoring has been undertaken in recent years. Although the unit is currently vacant, no evidence has been submitted by the applicant to demonstrate how the property has been marketed for its current use.
- 7.5 The proposal is therefore considered to be contrary to the objectives of Saved and Emerging Local Planning Policies that seek to safeguard the vitality and viability of local centres. Part 2 of the National Planning Policy Framework also seeks to promote local centres and to promote their vitality and viability, although it is accepted that residential development can play an important role in securing this on appropriate sites. For the reasons set out above and the evidence currently available, this is not considered to be an appropriate site.
- 7.6 As the proposal is contrary to both national and local planning policies, it must be considered whether there are any overriding factors that would outweigh this in the planning balance. With specific respect to this property, it is located within a key location within the local centre, linking the two main shopping streets of Victoria Road and Station Road. The loss of the current use, and its active frontage, would serve to create a break in these two streets and would result in the loss of a use that is actively promoted by planning policies at

ground floor level in retail areas. As there is no evidence that the property has been vacant for a sustained period of time, or that there were difficulties in re-letting for its current use or an alternative use that would comply with the relevant planning policies, it is considered that the proposal for residential use cannot be supported.

7.7 Impact on neighbouring properties, future occupiers and the area in general

I am satisfied that the proposed use of the premises, in terms of the activity associated with the use of the premises would result in no undue impact on neighbouring premises or the area in general.

7.8 Whilst I note that some external alterations to the building are proposed, these are relatively minor in nature and in my opinion do not detract from the building. The alterations proposed are not in my opinion dissimilar to the character of the existing building. The proposal would however result in the loss of a retail frontage, which would be undesirable given the location of the building within a local centre,

7.9 I am satisfied that there would be no undue overlooking impact as a result of the use of the building onto neighbouring properties given the distance and orientation of the building with existing neighbouring premises.

7.10 Whilst the internal space available to future residents is limited, it is considered that an adequate amount of space would be available to provide a reasonable level of amenity for the number of future occupiers that could reasonably occupy the property. Matters relating to potential over-occupation could be addressed under separate non-planning legislation.

7.11 Highway safety implications

I note the comments of the Highway Authority, as set out above in respect to the fact that only two off road car parking spaces are proposed to serve the proposal, which falls short of the amount of off road car parking spaces required under the Council's Parking SPD.

7.12 However, I am mindful that the site is situated within the Netherfield designated shopping area which is served by good public transport links and there are a number of public car parks within the area together with some off street parking availability.

7.13 I am also mindful of the previous use of the premises as a restaurant and consider that the proposed use of the premises for residential accommodation will not necessarily place a greater demand for off street parking in the area.

7.14 Flood risk issues

I note that the applicant's agent submitted a flood risk assessment as part of the application and having liaised with the Environment Agency it has been concluded that the proposed use of the site will not result in flood risk issues affecting the site or adjacent land provided that the development is

undertaken in accordance with the details as set out within the submitted flood risk assessment.

#### 7.15 Other matters

I note the comments in respect to the provision of two bathrooms and toilets and would advise that the applicant's agent confirmed that the environmental health guidance has been adhered to regarding sanitary facilities. I note that concerns have been raised in respect to the fact that further accommodation could be provided at the site and would advise that should this be the case then planning permission would be required.

- 7.16 The lack of a provision of a laundry room is not a material consideration in the determination of the application. The concerns raised in respect to the wiring of the building together with fire risk issues would be dealt with under the submission of a Building Regulations application. There is no evidence to suggest that this proposal would give rise to anti-social behaviour.

#### 8.0 Conclusion

The proposal is considered to be acceptable with respect to the impact that would arise upon adjacent properties, the level of amenity that would be provided for future occupiers, the impact upon the highway network and in flood risk terms. The proposal is however considered to be contrary to national and local planning policies that seek to safeguard the vitality and viability of local centres.

#### 9.0 **Recommendation: REFUSE PLANNING PERMISSION**

1. The property is prominently located within the Netherfield Local Centre at the intersection of two main shopping streets. The proposed conversion of the existing A3 use to a nine bedroom house of multiple occupation falling within a Sui Generis use class would be contrary to the objectives of Saved Local Plan Policy S2 and Emerging Local Plan Policy LPD49 which seek to ensure that the retail character of local centres is retained and to promote the vitality and viability of local centres. For these reasons, the proposal is also contrary to the overarching objectives of the National Planning Policy Framework which seeks to safeguard the vitality and viability of local centres. Whilst the property is currently vacant, it has been in use through the proceeding years and no evidence has been provided to demonstrate that it cannot be reasonably reused for its current use or in a use that would comply with the relevant national and local planning policies.