



Planning Report for 2020/0630



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Report to Planning Committee

Application Number:	2020/0630
Location:	45 Ashwell Street, Netherfield
Proposal:	Change of use from C3 dwellinghouse to seven bedroom (Sui-generis) HMO including loft dormer extension
Applicant:	Mr Justin Ingrey
Agent:	Wilson Architects Ltd.
Case Officer:	Alison Jackson

The application has been referred to Planning Committee by the Planning Delegation Panel to allow the matters in respect to highway safety and parking and amenity to be fully considered.

1.0 Site Description

- 1.1 45, Ashwell Street, Netherfield is an existing two storey end terraced property. The property is set slightly back from Ashwell Street. The property does not benefit from off street parking. The site is situated in close proximity to the Netherfield designated local shopping centre.

2.0 Relevant Planning History

- 2.1 None.

3.0 Proposed Development

- 3.1 Planning permission is sought for the change of use of the property from a Class C3 (dwelling) to a House in Multiple Occupation (HMO) providing 7 bedrooms which falls within a sui generis use. Five of the proposed rooms would provide en-suite facilities, with bedrooms 5 and 6 having access to a shared bathroom. Two of the bedrooms initially showed the provision of small kitchenette areas in addition to the en-suites, the plans however have been revised during the processing of the application to remove the kitchenette areas from these two rooms.
- 3.2 Permission is also sought for the erection of a dormer to the rear elevation roof slope of the dwelling, this providing accommodation within the existing roof area to provide bedrooms 6 and 7. The materials proposed for the dormer are tiles to the elevations to match the existing dwelling and white upvc for the windows.

4.0 Consultations

- 4.1 Nottinghamshire County Council (Highway Authority) – no objections, however it is noted that the existing dwelling relies on on street parking only. Parking on street is not a road safety issue however, inconvenience could be caused to existing residents who also have a demand for parking in the area.
- 4.2 Environmental Health (Noise) – no objections however, an informative should be attached to any grant of planning permission advising in regard to noise insulation and building regulations.
- 4.3 Environmental Health (Licensing) – no objections but a Licence would need to be applied for. The proposal accords with national space standards. As part of the licence application process, amenities including those provided in the kitchen would be assessed.
- 4.4 Environment Agency – no objections subject to the following condition:

The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref; Flood Risk Assessment, Change of use to HMO, Roy Lobley Consulting, RLC/0597/FRA01, 05/10/2020) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 21.75 metres above Ordnance Datum (AOD) as stated within paragraph 1.6 of the FRA.
- Flood Resistance measure to be implemented to a minimum height of 22.35 metres above Ordnance Datum (AOD), measures to be implemented as stated within paragraph 5.4 of the FRA.
- Flood Resilience measures to be implemented to a minimum height of 22.35 metres above Ordnance Datum (AOD), measures to be implemented as stated within paragraph 5.4 of the FRA.
- Safe refuge area to be located on the first floor or above, as stated within paragraph 5.5 within the FRA.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

- 4.5 Nottinghamshire County Council (Local Lead Flood Authority) – no comments in respect to the application as the proposal does not constitute major application, however the development should not increase flood risk to neighbouring sites or put the development at risk of flooding.
- 4.6 A site notice was displayed and neighbour notification letters posted. As a result of the consultation undertaken 37 no. letters of objection have been received together with a petition which has been signed by 57 residents and these are summarised below:
- The proposal will add to traffic congestion.
 - Lack of parking.

- Highway safety issues for highway users and pedestrians.
- Due to the amount of cars parked on the streets, no maintenance takes place to the streets.
- Lack of access along streets for refuse collection vehicles and emergency vehicles.
- Loss of value of neighbouring properties.
- Increased noise and disturbance to neighbouring properties.
- Concerns over whether the sewage system and water supply to the proposed HMO and existing properties is adequate.
- Increase in drug problems in the area.
- A HMO would undo the improvements in the area.
- The Victorian properties are an asset to the area, the introduction of a HMO would suppress any future investment in the area.
- Concerns over whether the Licensee would be a 'fit and proper' person.
- The company proposing the HMO is targeting the area to make money.
- Too much development is taking place in Netherfield.
- Netherfield is becoming over populated and is being turned into a ghetto.
- Lack of capacity in local schools for additional children in the area.
- Concerns over the types of people who will occupy the HMO. Will the property be used as a bail hostel
- The area will become unsafe.
- Concerns over increase in antisocial behaviour and crime.
- Concerns over the number of bins that would be needed and an increase in rubbish, potentially leading to fly tipping/vermin and health hazards.
- The mental health of neighbouring residents will be adversely affected.
- Other HMO's are being considered in the area.
- The rooms are too small to provide adequate living accommodation. It is an overintensive use of the property.
- Loss of community feel in the area if an HMO is allowed.
- The proposal will set a precedent.
- The works to the property would be disruptive to the area.
- Overlooking impact as a result of the proposed dormer.
- Loss of family homes and affordable homes.
- Increase risk of Covid-19 in the area and within an HMO.
- It's a disgrace that such an application is being considered.
- Existing residents will be forced to move if permission is granted.
- Concerns that the property would be used for illegal sex operations.
- HMO's should be banned in residential streets/areas.
- An HMO would be out of character with the area.
- There are enough flats and bedsits in the area.
- Risk to existing residents in the area given who may occupy the property.
- Concerns over the use of the roof area, will this cause fire risk issues.
- Loss of owner occupied housing.
- The HMO should be located in another area.
- A residents parking scheme will need to be considered.

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 material considerations indicate otherwise’.

- 5.2 The most relevant national planning policy guidance in the determination of this application is contained within the National Planning Policy Framework 2019 (NPPF) and the additional guidance 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 2019

Sets out the national objectives for delivering sustainable development. Section 1 (Achieving Sustainable development), Sections 5 (Delivering a sufficient supply of homes), 12 (Achieving well-designed places) and Section 14 (Meeting the challenge of climate change, flooding and coastal change) are particularly relevant.

6.3 Greater Nottingham Aligned Core Strategy Part 1 Local Plan

Policy A: Presumption in Favour of Sustainable Development – a positive approach will be taken when considering development proposals

Policy 1: Climate Change – all development will be expected to mitigate against and adapt to climate change including with respect to flood risk.

Policy 8: Housing Size, Mix and Choice – sets out the objectives for delivering new housing.

Policy 10: Design and Enhancing Local Identity – sets out the criteria that development will need to meet with respect to design considerations.

6.4 Local Planning Document (Part 2 Local Plan)

The Local Planning Authority adopted the Local Planning Document (LPD) on the 18th July 2018. The relevant policies to the determination of this application are as follows:

LPD 3 – Managing Flood Risk states planning permission will be granted for development in areas at risk of flooding provided that the development does not increase the risk of flooding on the site or elsewhere.

LPD 32 - Amenity states “Planning permission will be granted for development proposals that do not have a significant adverse impact on the amenity of nearby residents or occupiers, taking into account potential mitigation measures”.

LPD 37 – Housing Type, Size and Tenure states “Planning permission will be granted for residential development that provides for an appropriate mix of

housing, subject to housing need and demographic context within the local area.”

LPD 57 – Parking Standards states “Planning permission for residential development will be granted where the development proposal accords with the aims of the Council’s Supplementary Planning Document 2012 – Parking Provision for residential developments, or unless otherwise agreed in writing by the Local Planning Authority.

LPD 61 – Highway Safety states “Planning permission will be granted for development proposals which do not have a detrimental effect on highway safety, patterns of movement and the access needs of all people.”

6.5 Other

Parking Provision for Residential Developments – Supplementary Planning Document 2012– sets out the car parking requirements for new residential development.

7.0 **Planning Considerations**

Principle of the Proposed Use

- 7.1 The site is located within an urban area where the principle of the proposed use of the property together with the proposed use of the converted loft space as an HMO is considered acceptable subject to the assessment of all material planning considerations. The property has an authorised use as a Class C3 residential dwelling and whilst the proposed use, given that there would be 7 bedrooms provided at the property, would result in the use of the property falling within a sui generis use, the premises will be used for residential purposes, which is acceptable in this location.
- 7.2 It is therefore considered that the proposal accords with the aims of the National Planning Policy Framework 2019, policy 8 of the Local Planning Document 2018 and policy LPD37 of the Local Planning Document 2018.

Impact of the proposed Use on Residential Amenity

- 7.3 In my opinion the use of the existing property, together with the proposed loft conversion, as an HMO will result in no undue impact onto the amenity of neighbouring properties. Whilst there would be 7 bedrooms provided at the property, facilities in the property are shared by the residents and therefore the occupants would be effectively living as one residence. Whilst the initially submitted plans showed the provision of a kitchenette area within two of the bedrooms, the plans have been revised to remove the kitchenette areas from these rooms and therefore the occupants of all the rooms will share the kitchen area provided together with the living room area.
- 7.4 It is also acknowledged that the property could be used as a 6-bed HMO without requiring planning permission, I therefore consider that the creation of one additional bedroom in order to create 7 bedrooms in total will result in no undue impact on the amenity of neighbouring properties.

- 7.5 Whilst I note the concerns of neighbouring residents in respect to the fact that the use would not be as a 'family home' and the proposed use would affect what existing residents consider to be a 'family area' with the use adversely affecting the community in the area, I can see no justification for this assertion. The use of the property as proposed, whilst I accept would be different from a conventional 'family home', the use of the property as a HMO is supported through Policy 8 of the Aligned Core Strategy and LPD37, as above, which states that residential development should contribute to a mix of housing tenures, types and sizes to create sustainable, inclusive and mixed communities. This proposed development would provide accessible accommodation for tenants in a very sustainable location, close to public transport links and local amenities and would provide a mixed community.
- 7.6 There is no suggestion within the application that the premises would be used as a bail hostel.
- 7.7 I do not consider that the proposal would lead to the area being overpopulated as a result of the proposed use of the premises as an HMO.
- 7.8 The area of Netherfield currently offers a mixture of housing types, which is welcomed in terms of planning policies, providing inclusive communities. Planning policy does not prevent the development of properties for HMO's providing all other material considerations are assessed.
- 7.9 The Environmental Health Officer has been consulted on the application and has advised that they raise no objections to the proposed use. I see no reason to disagree with the professional advice of the Environmental Health Officer, however a Licence would need to be sought from the Borough Council which would assess space standards, facilities being provided within the property, i.e. fridges etc with these matters being assessed by Environmental Health through a mandatory 'property health check' as part of the application process.
- 7.10 The comments received from the Council's Public Protection Section in respect to the building regulations requirements and sound insulation etc, should be attached as a note to any grant of planning permission.
- 7.11 The implementation of these building regulations requirements, which will need separate building regulations approval, will also prevent any noise issues emanating from the use of the premises and between the individual rooms within the premises themselves.
- 7.12 The building regulations will also cover any potential fire risk issues affecting both the occupants of the property and given the fact that the property is a terraced property, neighbouring properties as well.
- 7.13 I note that concerns have been raised in respect to potential anti-social behaviour as a result of the occupants of the property and the potential that the area will become unsafe, again I see no justification for this assertion. However, as the property would be tenanted should any anti-social behaviour issues arise, these can be reported to the owner/management company of the property or the Council's Public Protection department and these matters

could therefore be investigated and any appropriate action taken. Any matters of a more serious nature could also be investigated by Nottinghamshire Police.

- 7.14 It is therefore considered that the proposal accords with the aims of policy 8 of the Aligned Core Strategy and policy LPD32 and policy LPD37 of the Local Planning Document 2018.

Design and Impact of the Proposed Rear Dormer on Neighbouring Amenity

- 7.15 In my opinion, the proposed dormer to the rear elevation roof slope of the property will be visually acceptable and will not detract from the existing dwelling. The proposed dormer sits within the existing roof of the dwelling and does not project above the ridge of the existing dwelling which is welcomed.
- 7.16 I am satisfied that there would be no undue overbearing or overshadowing impact onto neighbouring properties as a result of the proposed rear dormer.
- 7.17 In regard to any potential overlooking impact onto neighbouring properties, given the windows to the dormer will look onto the rear garden area of the application dwelling, I am satisfied that there will be no undue overlooking impact onto neighbouring dwellings.
- 7.18 It is therefore considered that the proposal accords with the aims of the National Planning Policy Framework 2019, policy 10 of the Aligned Core Strategy 2014 and policy LPD32 of the Local Planning Document 2018.

Highway Safety

- 7.19 The Highway Authority has raised no objection to the proposal and state that the proposed use of the premises as a HMO would result in no undue highway safety issues but note that demand for on street parking may result in inconvenience to neighbouring residents but that this is not a highway safety issue.
- 7.20 I note that no parking provision is being made at the site to serve the proposed use of the premises as an HMO. LPD 57 as set out above, states that planning permission will be granted for residential development where the development proposal meets the requirements for parking provision as set out within Appendix D of the Local Planning Document or otherwise agreed in writing by the Local Planning Authority. Appendix D reflects the Parking Provision for Residential Development SPD which gives guidance on the parking provision required for development. Policy LPD57 together with Appendix D and the Council's Parking SPD refer to the requirement for parking provision for dwellings and flats alone with no reference being made to residential developments falling within a residential sui generis use which this proposal is for. I consider therefore that in accordance with policy LPD57, as the proposal relates to residential sui generis use as opposed to dwellings or flats, the requirements of Appendix D and the guidance within the Parking SPD cannot be applied in this instance. It is therefore the latter of part (a) of Policy LPD57 that applies in this instance in that planning permission can be

granted for residential development providing parking standards are as 'otherwise agreed' by the Local Planning Authority.

- 7.21 Taking the above into account, I consider given the proximity of the site to the Netherfield designated shopping area, where there are a number of public car parks together with a number of amenities, shops, etc. which are within walking distance of the application site, together with the fact that the site is situated on a public transport route, the requirement for off road car parking at the site is not required in this instance and the requirement for parking provision has been appropriately assessed in accordance with policy LPD57.
- 7.22 Whilst I note that neighbouring residents have raised concerns in regard to the lack of off street parking and that there will be a greater demand for on road car parking on neighbouring streets preventing existing residents from being able to park, again the site is on a bus route and close to public car parks which can adequately accommodate parking.
- 7.23 With this property and other properties within the area which do not have off street car parking facilities, the on street parking is not restricted to individual properties, it is a case where anyone can park on the street. The concerns raised in regard to parking permits being introduced for residents would be a matter for the County Council as Highway Authority.
- 7.24 I am also mindful of the nature of the use of the dwelling, as a HMO, where occupants are perhaps not likely to have cars but if they do, then given the proximity of the site to a number of public car parks and on street parking being available in the area, parking can be accommodated.
- 7.25 I am also conscious that when the property is marketed as a HMO the rooms available would state that no off road car parking is available to serve the site and therefore the parking issue may manage itself to a certain extent, as if future occupants required off street parking they would be unlikely to apply to be a tenant at the property.
- 7.26 In respect to the issues of road maintenance, this would be a matter for the County Council as the road is an adopted highway.
- 7.27 It is therefore considered that the proposal accords with policy LPD61 in respect to highway safety and LPD57 in regard to the need for off street parking provision.

Flood Risk Issues

- 7.28 As the proposal relates to a change of an existing residential property there is no requirement to undertake a sequential test or an exception test. The proposal however has to be assessed as to whether or not the proposal results in any flood risk issues to the occupants of the premises. As the proposal is for the change of use of the premises, there will be no increased flood risk to the area in general.
- 7.29 I note that the Environment Agency has raised no objections to the proposed use of the premises as a HMO, subject to measures set out within the Flood

Risk Assessment to set finished floor levels to an acceptable height, the provision of flood resistance and resilience measures be incorporated into the development together with the fact that a safe refuge area would be located on the first floor should flooding occur.

- 7.30 I am satisfied therefore that with the incorporation of these measures into the development the use of the premises as proposed will result in no flood risk issues arising. A condition therefore will need to be attached to any grant of planning permission to ensure that the development is carried out in accordance with the submitted Flood Risk Assessment.
- 7.31 It is therefore considered that the proposal accords with the aims of the National Planning Policy Framework 2019, policy 1 of the Aligned Core Strategy 2014 and policy LPD3 of the Local Planning Document 2018.

Other

- 7.32 I am aware that there are other planning applications which are currently being assessed by the Borough Council for the conversion of properties within the Netherfield area to HMO accommodation. I would advise that each proposal and site must be considered on its own merits and precedents are therefore not set, should one site be granted planning permission.
- 7.33 The Local Planning Authority are obligated to assess applications submitted and determine the applications accordingly taking into account all material planning considerations.
- 7.34 The concerns in respect to the impact of the proposal on the sewage system and water supply to the site would be a matter for Severn Trent and Building Control in order to ensure that there is capacity for the safe disposal of waste and adequate water can be provided to the property.
- 7.35 I note the concerns raised in respect to where bins would be stored and am satisfied that these can be accommodated on the frontage of the application site, there is no evidence to suggest that fly tipping would occur in the area which would lead to vermin in the area. The cleanliness of the site would be a matter for occupants of the property but should problems arise, as the premises would be tenanted the concerns could be reported to the owner/management company of the property or the Council's Public Protection Section and these matters would be investigated and any appropriate action taken.
- 7.36 Whilst I appreciate that during any construction works there is likely to be some disruption to neighbouring residents, this is unlikely to result in significant prolonged disruption. However, should issues arise in regard to times and operations of construction work these matters can be investigated by the Council's Public Protection department and any appropriate action taken.
- 7.37 The potential impact of the proposal on the value of neighbouring properties is not a material planning consideration.

- 7.38 There is no evidence to suggest that the property will be used for illegal purposes, however should this be found to be the case once the property is occupied it would be a Police matter.
- 7.39 In addition concerns over drug dealing within the area is a Police matter.
- 7.40 The concerns in regard to the potential spread of Covid-19 in the property is not a material planning consideration. Whilst Covid-19 is a concern for all, certain procedures can be adopted to control this. Furthermore, the occupants would be living as one household and would have to follow applicable Covid legislation and guidance.
- 7.41 The concerns raised over the potential impact of the development on the mental health of neighbouring residents is not a material planning consideration.
- 7.42 There is no evidence that the proposal would lead to unscrupulous landlords in the area, however, the landlord would need to apply for a Licence under separate legislation.

8.0 Conclusion

The proposed development is consistent with national and local planning policies. The proposal will result in no undue impact on the residential amenity of occupiers of neighbouring properties, there are no highway safety or parking issues arising and space standards within the development are considered to be acceptable. The development is also acceptable in respect to flood risk issues. It is considered that the proposal is appropriate for its context and is in accordance with the NPPF (Sections 1, 5, 12 and 14), Policies A, 1, 8 and 10 of the GBCAS (2014) and Policies LPD 3, 32, 37, 57 and 61 of the LPD.

Recommendation: GRANT PLANNING PERMISSION: subject to the following conditions:

Conditions

- 1 The development must be begun not later than three years beginning with the date of this permission.
- 2 The development shall be carried out in accordance with the details as set out within the application form received on the 9th July 2020, the site location and block plan received on the 9th July 2020, drawing number 20064-P-001 and the plan received on the 9th July 2020, drawing number 20064-P-102 Revision B.
- 3 The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref; Flood Risk Assessment, Change of use to HMO, Roy Lobley Consulting, RLC/0597/FRA01, 05/10/2020) and the following mitigation measures it details:
 - Finished floor levels shall be set no lower than 21.75 metres above Ordnance Datum (AOD) as stated within paragraph 1.6 of the FRA.

- Flood Resistance measure to be implemented to a minimum height of 22.35 metres Above Ordnance Datum (AOD), measures to be implemented as stated within paragraph 5.4 of the FRA.
- Flood Resilience measures to be implemented to a minimum height of 22.35 metres above Ordnance Datum (AOD), measures to be implemented as stated within paragraph 5.4 of the FRA.
- Safe refuge area to be located on the first floor or above, as stated within paragraph 5.5 within the FRA.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reasons

- 1 In order to comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt.
- 3 To ensure that the site is safe and suitable for use, thereby taking into consideration the aims of the National Planning Policy Framework 2019, policy 1 of the Aligned Core Strategy 2014 and policy LPD3 of the Local Planning Document 2018.

Reasons for Decision

The proposed development is consistent with national and local planning policies. The proposal will result in no undue impact on the residential amenity of occupiers of neighbouring properties, there are no highway safety or parking issues arising and space standards within the development are considered to be acceptable, a Licence however would need to be sought from the Borough Council. The development is also acceptable in respect to flood risk issues. It is considered that the proposal is appropriate for its context and is in accordance with the NPPF (Sections 5, 12 and 14), Policies 1, 8 and 10 of the GBCAS (2014) and Policies LPD 3, 32, 37 and 61 of the LPD.

Notes to Applicant

Your attention is drawn to the following Building Regulations advice which will need to be adhered to: Sound Insulation & Building Regulations The resistance to the passage of sound in buildings must comply with Approved Document E of the building regulations which sets out standards for the resistance to airborne sound and impact sound between and within dwellings. Approved Documents E covers:- Separating walls, floors & associated flanking transmissions for new buildings- Internal walls, floors & stairs for new buildings-Dwelling houses & flats formed by a material change of use-Rooms for residential purposes-Common internal parts of buildings containing flats or rooms for residential purposes . Approve Document E states that it is good practice to consider the layout of rooms in separate dwellings at the design stage to avoid placing noise sensitive rooms next to rooms in which noise

is generated eg not situating living areas or kitchens above or next to bedrooms. This will reduce the likelihood of future complaints about impact noise.

Planning Statement - The Borough Council has worked positively and proactively with the applicant in accordance with paragraph 38 of the National Planning Policy Framework (2019).

The applicant is advised that all planning permissions granted on or after 16th October 2015 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website. The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.