



**Application Number:** 2014/0499

**Location:** 742 Mansfield Road Nottingham NG5 3FY



**NOTE:**

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**Report to Planning Committee**

**Application Number:** 2014/0499

**Location:** 742 Mansfield Road Nottingham NG5 3FY

**Proposal:**

**Applicant:** Mr I McHugh

**Agent:**

Site Description

No. 742 Mansfield Road, Woodthorpe is a large detached two-storey property occupying a substantial plot on the corner of Mansfield Road with Albemarle Road. The property has a flat roof single-storey rear extension, measuring approximately 7.63m in width x 28.2m in depth, to the rear which is accessed via a link. The property has been converted into a day nursery unit with ancillary residential accommodation and has permission for a maximum of 82 children.

The property is adjoined on its eastern boundary by a detached two-storey dwelling, No. 3 Albemarle Road which is located on a slightly higher level. This property has ground and first floor principle room bay windows to the side elevation facing the application site which are the only windows serving a lounge, dining room and bedrooms. The side boundary of this dwelling with the application site consists of a brick wall together with some low shrubs and mature trees. To the south the site is adjoined by the Balmoral Court apartments off Villiers Road.

Pedestrian and vehicular access is off Albemarle Road. There is a car parking area situated to the western frontage of the unit with provision of 15 spaces serving the nursery and 6 private spaces. A children's play area is located in the south-western area of the site adjacent to the car parking area. A further play area is situated to the rear of the property, in the south-east corner of the plot. There is a brick wall boundary to the eastern side of the site, a tall conifer hedge to the southern boundary with the adjoining apartment building and close boarded fencing to the road side boundaries.

The property is situated within the Old Woodthorpe Special Character Area as identified in the Replacement Local Plan. There are a row of mature beech and lime trees along the western boundary with Mansfield Road that are covered by a Tree Preservation Order.

Planning History

In August 1991 planning permission was refused to convert a pool house (rear flat

roof building) to a three bedroom dwelling as the development would be a cramped form of development out of character with adjoining and nearby properties and the proposal would have an unsatisfactory relationship with No. 742 Mansfield Road – application ref. 91/0817.

In July 1992 conditional planning permission was granted for the change of use 742 Mansfield Road to a day nursery for 40 children - application ref. 92/0574.

In March 1994 conditional planning permission was granted to alter condition 3 of app 92/0574 to provide accommodation for 50 children at Children's Day Nursery - application ref. 94/0157.

In November 1994 planning permission was refused to change of use of part of building and erect first floor extensions to form private school for 50 children up to 8 years old as use of the premises as a private school would be seriously detrimental to the amenity of adjoining properties and impact on highway safety - application ref. 94/1323.

In April 1995 conditional planning permission was granted to extend the existing nursery by 20 places and erect extensions. Condition 6 restricted the number of children to be accommodated at the site to no more than 70 at any one time - application ref. 95/0233.

In November 1998 planning permission was refused for an extension and new tiled roof (to the flat roof building) as the proposed roof extension would be seriously detrimental to the amenity of the adjoining dwelling by reason of its overbearing and overshadowing effect – application ref. 98/0868. The resultant roof structure had a depth of 28.5m and a maximum height of 5.5m.

In February 1999 planning permission was granted for an extension to the nursery, measuring approximately 5.5 metres in width x 7.9m in depth on the northern side elevation of the existing single storey (flat roof) extension – application ref. 98/1480.

In May 2004 planning permission was granted for a renewal of application number 98/1480 – application ref. 2004/0200.

In April 2009 planning permission was granted to vary condition 6 on planning ref 1995/0233 to increase child numbers from 70 to 82 - application ref. 2009/0081.

A planning application was deposited in August 2012 for the replacement of the existing flat roof to the rear extension with pitched roof incorporating 2 no. flats. This was subsequently withdrawn prior to the determination of the application – application ref. 2012/1021.

In November 2013 planning permission was refused for the replacement of the existing flat roof over the rear extension with a hipped roof which had a central flat section incorporating 2 no. flats by virtue of the proposal resulting in a detrimental impact on the visual amenity and character of the Special Character Area, being an overintensive use of the site and having an undue overbearing impact on the neighbouring property - application ref. 2013/1007. An appeal has been lodged with the inspectorate against this refusal.

## Proposed Development

Full planning permission is now sought for the replacement of the existing flat roof over the rear extension with a full hipped roof to the front which has a central flat section. This has maximum dimensions of 7.5m width and 28.5m dept. The roof has a maximum ridge height of 7m to the front which reduces to 5.7m along the flat roof section. It is set in 0.6m from the side wall of the building facing no. 3 Albemarle Road and 1m in from the boundary with this neighbouring property. The addition of the roof would result in the formation of 2 no. 1 bedroom which are identified as staff flats. Velux windows are proposed to the front, rear and the side roof slope facing into the application site.

Within the central section of the roof slope facing no. 3 Albemarle Road 3no. recessed areas of planting are proposed.

A Design and Access Statement has been deposited with the application which outlines the site and surroundings, the proposal and background, relevant policy and guidance, the main planning issues and other matters. It concludes that the proposal has addressed the main planning issues and constraints and will result in a high quality development which would play an economic, social and environmental role.

## Consultations

Nottinghamshire County Council (Highway Authority) – Comments are as previously made (2013/1007). No concerns are raised as the site provides adequate provision for parking for both the staff associated with the Day Nursery and the private residential flats.

Public Protection – Any comments received will be reported verbally to Committee.

Adjoining neighbours have been notified of the proposal and a site notice posted. 3 letters and one mail have been received which express the following concerns:-

- The revised proposal is not materially different to that previously refused and therefore should be refused;
- The proposal would be out of character which is a designated as an area of particular interest;
- The site is already over developed;
- The proposal would exacerbate existing traffic issues on Albemarle Road and raise highway and pedestrian safety and traffic issues;
- The proposal would exacerbate existing on street parking issues;
- The flats are stated as being for staff. How would this be guaranteed or monitored? This would not address the potential risk. If the flats are not occupied by

staff child safety issues would need to be considered;

- The proposal would have an adverse impact on the streetscene and Special Character Area;
- The plot seems to have 2 addresses;
- The proposal would build on the existing commercial use of the site and result in over intensification of development in this part of the Special Character Area;
- Given the increase in the number in children attending the nursery the proposal would result in an over intensification use of the site;
- Although the proposal would fit central targets in terms of 2 new dwellings on a brownfield site, what will happen if the owners of the nursery move into the flats and the upper floor of the main house becomes vacant?;
- The existing boundary treatments on Albemarle Road restrict visibility entering and leaving the site;
- All the properties have restrictive covenants to prevent construction in front of the building line. The swimming pool building which later became part of the nursery was set back from the boundary and has since crept forward;
- The proposal would result in loss of visual amenity;
- The proposed planting to the roof would be difficult to access and maintain and may detract from the appearance of the building. Elevations do not accurately show the planting areas.

It is considered that given that the previous application which was refused at Planning Committee in November 2013, then the current application should also be presented to Planning Committee.

#### Planning Considerations

In my opinion, the main considerations in the determination of this application are:-

1. Appropriateness of the site for residential use;
2. Design and appearance;
3. The impact on the character and visual amenity of the area;
4. The impact on residential amenity; and
5. Highway safety.

The relevant national planning policy guidance in respect of these matters is set out

in the National Planning Policy Framework (March 2012). At the heart of the NPPF is a presumption in favour of sustainable development and good design. In particular the following chapters are relevant in considering this application:

6. Delivering a wide choice of quality homes
7. Requiring good design

At the local level the Policies within the Gedling Borough Council Replacement Local Plan (Certain Policies Saved 2008) are relevant. In particular the following policies are relevant in the determination of this application:

Policy ENV1 'Development Criteria';

Policy ENV16 'Old Woodthorpe Special Character Area';

Policy H7 'Residential Development on Unidentified Sites within the Urban Area and the Defined Village Envelopes'; and

Policy H16 'Design of Residential Development'.

Under Policy ENV1 development should be of a high standard of design, in keeping with the scale and character of the existing dwelling and should not cause unacceptable harm to the amenity of neighbouring residents. Appropriate parking and provision for the safe and convenient access and circulation of pedestrians and vehicles should be made. Similarly Policy H16 requires dwellings to be of a high standard of design which have regard to the surroundings, and are sited and designed to relate to each other and to the roads, footpaths and open spaces in the surrounding layout and do not adversely affect the area by reason of their scale, bulk, form, layout or materials.

Policy H7 reflects these criteria and states, inter-alia that planning permission will be granted for residential development within the urban area provided it is of a high standard of design and does not adversely affect the area by reason of its scale, bulk, form, layout or materials and it would not result in the loss of buildings or other features including open space which make an important contribution to the appearance of the area.

Policy ENV16 states inter-alia that within Old Woodthorpe Special Character Area proposals should respect the valued townscape and seek to preserve its importance. Development will be granted provided that it harmonises with the materials, design features, architectural style, average plot sizes and building heights predominant in the area and it does not adversely affect the overall residential character of the area.

The supporting text to this policy adds that:-

'Whilst Old Woodthorpe does not meet the criteria for designation as a Conservation Area, it does have a significant character and cohesive nature which is worthy of special protection. Whereas the western boundary to the area (Mansfield Road) features examples of C2 commercial development, further development in this area should respect the distinctive residential character of the area: that of predominantly

detached houses set within mature gardens. Where residential development, infilling or the subdivision of existing plots is proposed, this will not be permitted if it results in a housing form which is out of character with the special character of the area. Any new development that intensifies the urban appearance of the area (either by bulk, scale or massing of the built form or its layout) will be resisted. Visual separation between buildings and mature planting are important elements of the area. Detailed design considerations include Bulwell stone walling, street trees and individually designed houses.'

Gedling Borough Council at its meeting on 13th February 2013 approved the Gedling Borough Aligned Core Strategy Submission Documents (ACS) which it considers to be sound and ready for independent examination. Consequently, Gedling Borough in determining planning applications may attach greater weight to the policies contained in the Aligned Core Strategy Submission Documents as it is at an advanced stage of preparation with the level of weight given to each policy being dependent upon the extent to which there are unresolved objections (the less significant the unresolved objections, the greater weight that may be given). It is considered that the following policies are relevant:

- Policy 8 Housing size, Mix and Choice; and
- Policy 10 Design and Enhancing Local Identity.

Appropriate parking provision should be made and in considering new residential units, account should be taken of the residential parking standards set out in the Borough Council's Supplementary Planning Document (SPD) 'Parking Provision for Residential Developments' (2012).

#### Appropriateness of residential use of the site

Being mindful of the urban setting of the application site within a residential area and close to good public transport links, I consider that the principle of residential development on this site would be acceptable and that the proposed one-bedroom flats would contribute to a mix of house types in the area.

I do not consider that the creation of the two small residential units would be overdevelopment nor would they result in such an increase in activity within the site to result in overcrowding or an overintensive use.

#### Design and appearance

I am of the view that the flat roof existing building to which this application relates is of poor appearance and fails to respect the character or scale of the adjoining properties or the streetscene or the wider special character area.

Taking this into account, I consider that the proposed hipped roof to the street frontage reflects the character of surrounding properties. I am satisfied the higher hipped roof to the front of the building with the central flat section is acceptable in terms of its scale, bulk, design and appearance..



I consider it reasonable, should planning permission be granted, that a condition be attached requiring the submission and written approval of details and samples of external materials to ensure that satisfactory materials are used in the construction of the proposed roof.

#### Impact on the character and visual amenity of the area

Being mindful that the surrounding area consists of residential properties of varying designs, styles and materials, some with modern additions I do not consider that the proposed roof would be visually intrusive or detrimental to the streetscene and the wider Special Character setting. Should planning permission be granted I consider that it would be reasonable to attach a condition requiring the submission and written approval of details and samples of external materials.

I note that the proposal is forward of the relatively uniform building line for residential properties on Albemarle Road. However, the main nursery building itself has been extended close to Albemarle Road.

I am mindful of the sub-text to Policy ENV16 requires visual separation between buildings. I am satisfied that the proposal will be viewed against the existing built form of No. 742 Mansfield Road and will not appear unduly visually intrusive on the streetscene. There would be approximately 5m separation at the closest point between the proposal and the rear elevation of No. 742 Mansfield Road and some 7 metres to No. 3 Albemarle Road. The improvement in design and the positive contribution I consider that this would make to the streetscene would, in my opinion, be balanced against the reduction in openness between the buildings.

I am also of the view that the creation of additional residential use within the site would not be significantly affect the character of the surrounding area nor result in any significant increase in residential density to warrant refusal on these grounds.

Taking these considerations into account I am of the view that the proposal would not be significantly detrimental to the character and appearance of the streetscene nor the wider Old Woodthorpe Special Character Area to justify refusal of planning permission.

#### Neighbouring Amenity

The flat roof building is situated adjacent to the boundary with No. 3 Albemarle Road and approximately 1m lower than this neighbouring property. There is a distance of some 7m from the west side elevation of No. 3 Albemarle Road and the proposal. There are some low shrubs, mature trees and bushes along this boundary. I note that the submitted elevation drawings indicate the proposal both with trees along the boundary of this adjacent dwelling and without any trees in place. I am of the opinion that any trees shown on these plans are purely indicative. The site has been visited the proposal viewed from the neighbouring property and the height of the mature trees that were in situ measured at that time. Given that these trees are not protected and could be removed without the need for consent, in assessing the proposal I have considered the impact upon the residential amenity of the occupiers of no. 3 Albemarle Road with the trees, in situ and without, should they be felled.

It has been ascertained from an internal inspection of no. 3 Albemarle Road that the main aspect of this neighbouring property faces the west and south and that there are a number of ground and first floor principle rooms served by windows on the western elevation of the dwelling.

I am mindful that although the proposed roof will extend some 28.5m along this boundary with no. 3 Albermarle Road, it will slope away from the dwelling. The ridge height of the hipped roof is 7m in height to the front and has been reduced to 5.7m where it directly faces the side elevation of the adjacent dwelling at no. 3 Albemarle Road. I am also mindful that the side roof slope facing the boundary with this neighbour has also been set in 0.6m from the side wall plate of the building.

Taking these revisions to the previously proposed scheme into account together with the distances between the proposed roof and the adjoining property at no. 3 Albemarle Road, and the orientation of the two plots, I am of the view that, on balance, the proposal would not result in any undue impact upon the residential amenity of the occupier of this dwelling in terms of overshadowing or overbearing impact to justify refusal of planning permission on these grounds.

I note that velux windows are proposed to the side roof slope facing no. 742 Mansfield Road and to the front and rear roof slopes. There is a distance of some 12m between the proposed veluxes and the existing property at 742 Mansfield Road and I do not consider the proposal would be significantly harmful to residential amenity of this property to warrant refusal of planning permission. Notwithstanding this I consider that, should planning permission be granted, it would be reasonable to attach a condition to prevent the insertion of any velux windows to the roof slope facing no. 3 Albemarle Road to further safeguard amenity.

In relation to the amenity of the occupiers of the proposed flats, the proposed development would need to conform to current Building Regulations in terms of sound insulation. The Borough Councils Building Control officers have confirmed that details of a sound insulation scheme for the proposed flats would be required to be submitted with the building regulation application. I am therefore satisfied that the residential amenity of the future occupiers of the flat will be secured.

#### Highway Implications

I note that the Highway Authority has raised no concerns with regards to the proposal in relation to the parking provision and that 2 no. spaces will be allocated to serve the residential units. Having referred to the Borough Council's Supplementary Planning Document on Residential Parking Standards, the 2 allocated parking spaces meets the parking requirement of 1 space per 2 bedroom dwelling set within the document.

I am mindful that the site is well served by public transport. I am satisfied that the creation of the two one bedroom residential units would not result in any significant increase in traffic or pedestrian movements to and from the site nor upon existing highway or on street parking conditions.

I note the comments received during consultation in respect of concerns relating to the potential impact on traffic and parking in the area. Bearing in mind the level of parking proposed and that no objections are raised by the Highway Authority, I consider it unlikely that there will be an undue impact on highway safety in the area as a direct result of the proposals.

With regards to the concerns raised about additional traffic and parking currently affecting Albemarle Road as a result of the dropping off of children at the nursery, parking for the tennis club and visitors to the nursing homes, I am of the opinion that these issues are beyond the remit of this planning application.

#### Other issues

I am satisfied that the application site has been correctly identified on the deposited site plans in accordance with planning legislation. The flat roof building to which this application relates is sited some 44m back from Mansfield Road. However, the Mansfield Road address is correct for the premises as identified by the site edged red on the application plans and enables the identification of the site.

I am satisfied that access to the new residential units is adequate and would not result in any safety issues in relations to existing residents, children and potential occupiers of the proposed flats.

Comments raised with regards to restrictive covenants and drainage are not material planning considerations and therefore warrant very limited weight in considering this proposal.

With regards to the potential future use of the upper floors of the main building should they become vacant, should any planning application for a change of use be submitted at that time it would be considered and determined on its own merit.

I note the comments with regards to the occupancy of the proposed residential units and child safety. The Borough Council have a responsibility for the protection and safety of children up to the age of 18 years. Nottinghamshire County Council and the Police are the lead agencies with regard to child protection and The Children Act 2004 is the appropriate legislative framework to address child protection issues. With regards to Ofsted, in this instance Ofsted are not a statutory consultee. They have advised that they would not expect to be consulted by the Local Authority on the application and that it is the responsibility of the applicant to advise them of any proposed changes to the site. Notwithstanding this I consider it reasonable to attach a condition should permission be granted restricting the occupancy of the flats to nursery staff. I am the view that it is the responsibility of the owner of the nursery to put in place sufficient safeguards in relation visitors to the site in line with current child protection legislation.

I also note the comments received with regards to the maintenance of the proposed planted areas to the roof slope. Being mindful of the details of maintenance of these areas outlined in the Design and Access Statement I am of the opinion that this would be the responsibility of the owner/occupier of the property. Notwithstanding this I consider that it would be reasonable to attach a condition, should permission

be granted, requiring details of the planting to safeguard the appearance of the building and its setting.

#### Conclusion

Taking these considerations into account I am satisfied that the proposed development is acceptable in this location and that it would not have any undue impacts upon neighbouring amenity, the streetscene, the Woodthorpe Special Character Area or highway safety. The proposal therefore accords with the above national and local plan policies

#### **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 hereby approved shall be carried out in accordance with the revised approved plans (drg. nos. WDC/13/02D, WDC/13/05C, WDC/13/07B).
3. Before development is commenced there shall be submitted to and approved in writing by the Borough Council details and a sample of the materials to be used in the external elevations of the proposed roof. Once approved the development shall be constructed in accordance with these approved details.
4. The proposed parking spaces to serve the flats hereby approved shall be allocated prior to the flats first being occupied and these shall be retained at all times for the lifetime of the development.
5. Before development is commenced there shall be submitted to and approved in writing by the Borough Council details of the proposed planting to the recessed aread of the roof slope. Once approved the planting shall be carried out in accordance with these approved details.
6. The development hereby approved shall be occupied by members of staff associated with the nursery.
7. No velux windows shall be inserted into the side roof slope facing no. 3 Albemarle Road at any time.

## 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 a satisfactory development, in accordance with the aims of policies ENV1 and ENV16 of the Gedling Borough Replacement Local Plan (Certain Policies Saved) 2008.
4. To ensure a satisfactory development, in accordance with the aims of policies ENV1 and ENV16 of the Gedling Borough Replacement Local Plan (Certain Policies Saved) 2008.
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6. To ensure a satisfactory development, in accordance with the aims of policies ENV1 and ENV16 of the Gedling Borough Replacement Local Plan (Certain Policies Saved) 2008.
7. To ensure a satisfactory development, in accordance with the aims of policies ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved) 2008.

## Reasons for Decision

In the opinion of the Borough Council the proposed development is acceptable in this location and would not have any undue impacts upon neighbouring amenity, the streetscene, the Woodthorpe Special Character Area or highway safety. The proposal therefore accords with the National Planning Policy Framework (2013) and policies ENV1, ENV16, H7 and H16 of the Gedling Borough Replacement Local Plan (Certain Policies Saved) 2008.

## Notes to Applicant

You are advised that planning permission does not override any private legal matters which may affect the application site, over which the Borough Council has no jurisdiction (e.g. covenants imposed by former owners, rights of light, etc.).

The attached permission is for development which will involve building up to, or close to, the boundary of the site. Your attention is drawn to the fact that if you should need access to neighbouring land in another ownership in order to facilitate the construction of the building and its future maintenance you are advised to obtain permission from the owner of the land for such access before beginning your development.

Planning Statement - The Borough Council has undertaken negotiations during the consideration of the application to address concerns identified by officers in connection with the proposal. Amendments have been made to the proposal, addressing the identified adverse impacts, thereby resulting in a more acceptable scheme and favourable recommendation. The Borough Council has worked positively and proactively with the applicant in accordance with paragraphs 186 to 187 of the National Planning Policy Framework.

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is also available on The Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk). Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).