

Item No. 2

Application Reference Number P/19/1540/2

Application Type:	Full	Date Valid:	26/07/2019
Applicant:	Mr Kirit Mistry		
Proposal:	Change of use from dwelling (Use Class C3) to house in multiple occupation (Use Class C4)		
Location:	88 Gracedieu Road Loughborough LE11 4QG		
Parish:	Loughborough	Ward:	Loughborough Ashby
Case Officer:	Deborah Liggins	Tel No:	01509 634733

This item is referred to Plans Committee at the request of Councillor Bradshaw who considers that there are already large numbers of houses in multiple occupation in the area and that the loss of a further family home within the Ashby Ward should be resisted. Car parking is also a concern, and that the use may generate additional noise and contribute to the decline in the character and appearance of the locality.

Description of the Application Site

The application site lies within an established residential area within the Ashby Ward and is a mid-terraced dwelling on the eastern side of the street with a concrete drive and off-street car parking for one vehicle with the remaining frontage laid to lawn and screened to the highway boundary with a privet hedge.

The dwelling currently has three first floor bedrooms and a shower room and to the ground floor are a lounge, kitchen, hallway and further shower room.

Description of the Proposals

The proposal is to change the use of the property from a Class C3 dwelling which is a dwelling used for family occupation or by up to 2 unrelated persons living as a household, to a Class C4 dwelling (HiMO), which is a dwelling occupied by between 3 and 6 unrelated persons who would share amenities. The Article 4 Direction put in place by the Borough Council on 12th February 2012 means that, whereas this change can normally be made as 'permitted development', in Loughborough planning permission is now required.

The proposal would retain the internal layout as existing and no external changes are being proposed to the building to facilitate the use.

The control over who the property is let to (whether to students or professional people) is outside the remit of planning control and is a matter for the owner/letting agency.

Development Plan Policies

The following Development Plan policies and guidance are relevant in the assessment of an application for the development:

Charnwood Local Plan 2011-2028 Core Strategy

Policy CS1 – Development Strategy sets out the development strategy and directions of growth for the Borough.

Policy CS2 – High Quality Design – requires new developments to make a positive contribution to Charnwood resulting in high quality inclusive design which responds positively to its context and results in places where people would wish to live. New developments should respect and enhance the character of the area, having regard to scale, density, massing, height, landscape, layout, materials and access arrangements. The policy also requires new development to protect the amenity of people who live and work nearby and those who will live in the new development.

Policy CS4 – Houses in Multiple Occupation is concerned with managing the proportion of houses in multiple occupation. It states that the Council will support the well-being, character and amenity of communities by managing the proportion of houses in multiple occupation that, either in themselves, or cumulatively with other houses in multiple occupation, damage the social and physical character and amenity of a street or area, generate noise and disturbance which is detrimental to amenity or generates increased demand for on-street car parking which would prejudice the safe operation of the highway or cause detriment to amenity. The policy explains that further guidance will be prepared in respect of HiMO's. In this regard, the Council has adopted its Housing Supplementary Planning Document which is also a material consideration in the determination of this application.

Borough of Charnwood Local Plan

Policy EV/1 – Design - seeks to ensure a high standard of design for developments, which, inter alia, respects and enhances the local environment, is of a design, layout, scale and mass compatible with the locality and utilises materials appropriate to the locality.

Policy TR/18 - indicates that planning permission will not be granted for development unless off-street parking for vehicles, including cycles, and servicing arrangements are included to secure highway safety and minimize harm to visual and local amenities. The policy promotes standards that would require 3 parking spaces for a 4 or more bedroom dwelling, although it states that this will be used as the starting point in assessing the level of provision and represent the maximum level. The quantity of parking allowed should reflect the proposed use and the location of development, the availability of public off - street parking; the current or potential accessibility by non-car modes and the scope for practical measures to significantly reduce the use of private car trips to and from a site.

Other material considerations

Article 4 Direction

Loughborough is subject to an Article 4 direction put in place in February 2012 and which removes the rights to change the use of Class C3 dwellings to Class C4 Houses in Multiple Occupation in Loughborough. These are dwellings where between 3 and 6 unrelated persons, sharing basic amenities could occupy a property without the need for planning permission - whereas, the Article 4 Direction limits this to occupation by a family or up to 2

unrelated persons living as a single household. Planning permission is now required for occupation of dwellings by more than 2 unrelated persons.

The National Planning Policy Framework (2019)

This confirms that planning applications are to be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework does not make specific reference to HiMO's but includes guidance which is relevant to this application as follows:

The Framework requires that planning decisions should, inter alia, create places that are safe, inclusive and accessible which promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other, are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

Paragraph 8 identifies the economic and social roles of the planning system, both to build a strong responsive economy by ensuring land (and presumably buildings) are available in the right place at the right time, and supporting the health of the community by ensuring housing for present needs that has a high quality built environment, which encompasses social and cultural well-being.

In considering development proposals, it should be ensured that sustainable transport modes can be taken up, and that safe and suitable access to the site can be achieved for all users.

Paragraph 109 requires that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe, that is, there would be an unacceptable impact on highway safety.

The NPPF also explains that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development being considered, enforceable, precise and reasonable in all other respects.

The Leicestershire Highways Design Guide (2018)

This is a guide for use by developers and published by Leicestershire County Council and provides information to developers and local planning authorities to assist in the design of road layouts. The purpose of the guidance is to help achieve development that provides for the safe and free movement of all road users, including cars, lorries, pedestrians, cyclists and public transport. Design elements are encouraged which provide road layouts which meet the needs of all users and restrain vehicle dominance, create an environment that is safe for all road users and in which people are encouraged to walk, cycle and use public transport and feel safe doing so; and help create quality developments in which to live, work and play. The document also sets out the quantum of off-street car parking required to be provided in new housing development.

Housing Supplementary Planning Document (HSPD) May 2017

A Housing Supplementary Planning Document was adopted on the 11th May 2017 which provides further explanation and guidance on the interpretation of Policy CS4 when dealing with Houses in Multiple Occupation proposals.

Section 4 of the Housing SPD provides guidance for assessment of applications that propose small or large houses in multiple-occupation. Small HMOs are defined as shared houses or flats occupied by between 3 and 6 unrelated individuals who share basic amenities and large HMO's are for more than 6 occupiers and are a 'sui generis' use. i.e. they do not fall into any existing class in the Town and Country Planning (Use Classes) Order. These proposed changes of use do not benefit from being 'permitted development' in Loughborough due to the Article 4 directive which was introduced in 2012.

The SPD provides a methodology (at HSPD11) for assessing the concentration of Houses in Multiple Occupation against the criteria of Core Strategy Policy CS4 as part of understanding the potential for cumulative impacts. The methodology assesses the concentration of HMOs within 100m of the application site as a proportion of the total number of residential dwellings. Halls of Residence and purpose built student accommodation will not be included in the calculation. However, any Halls of Residence and purpose built accommodation will be considered as part of the overall decision making process in terms of their impacts.

Although the methodology is pending review, consultation on a replacement policy is in its early stages and can be afforded no weight at this time.

The adopted SPD accepts that HMO's help to meet local housing requirements and can be an important type of accommodation for a range of people including those on low incomes and young people (para 4.1) and it also repeats the objectives of Core Strategy Policy CS4 that seeks to support the well-being, character and amenity of local communities by managing the proportion of HMO's.

The SPD recognizes that the threshold approach is one material consideration to be considered alongside other matters identified in Policy CS4 and the SPD. These include those set out in the SPD at HSPD12 Social and Physical Character and Amenity, HSPD13 Amenity Space and HSPD14 Noise Insulation and HSPD15 Parking.

The Crime and Disorder Act 1998

This places a duty on the local planning authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on community safety is therefore a material consideration in the determination of planning applications.

Relevant Planning History

None

Responses of Statutory Consultees

No comments have been received from statutory consultees

Other Comments Received

Councillor Goddard objects to the proposal stating the Ashby ward is already saturated with houses in multiple occupation. Car parking is problematic within the street, blocking drives for residents and impeding access for emergency services. It is expressed that the Council has a responsibility to ensure communities are balanced and cohesive and this is being eroded in the area. Councillor Goddard reminds us that although the existing saturation percentage within the 100m radius is 14.3% the reference to a 20% threshold should be regarded as a limit, not a target.

Councillor Bradshaw objects to the proposal and is similarly concerned about the saturation of the Ashby Ward with concentrations of houses in multiple occupation and calls for the application to be rejected even though the presence of HiMO's within 100m of the application site is below the 20% threshold. Car parking within the street is an issue as the application site is close to the University. Councillor Bradshaw considers that people do not report incidents of anti-social behavior for fear of repercussions and that the Council's statistics on this may not therefore be reflective of the actual situation.

113 Gracedieu Road has raised concerns that the street is overrun with students. There are problems within the street of speeding traffic, parking, noise and an abundance of dumped rubbish.

Consideration of the Planning Issues

The main issues to be considered in the determination of this application are:

1. Principle of Development
2. Community Balance and the Character of the Area
3. Noise and Disturbance
4. Bin Storage
5. Car Parking
6. Other Matters

Principle of Development

The starting point for decision making on all planning applications is that they must be made in accordance with the development plan unless material considerations indicate otherwise. Policies in the adopted Core Strategy and the saved policies in the Borough of Charnwood Local Plan are therefore the starting point for consideration. Loughborough is considered to be a sustainable location for housing development due to its accessibility to employment, educational establishments, shops and services. The site is also well served by easy pedestrian access to bus stops and is within cycling or walking distance of the town centre. The location of the site is therefore acceptable in principle and the proposal accords with Policy CS1.

In addition, the supporting text to Policy CS4 states that, whilst the Council values Loughborough University and Loughborough College and the significant economic, social and cultural contributions the student population brings to Loughborough, a negative impact has been experienced in some neighbourhoods because of the over concentration of HiMO's. These impacts have affected some community facilities, the character and appearance of the area and caused disturbance and parking problems.

In response to this, the Council has developed a strategy for managing the proportion of HiMO's in Loughborough, particularly where it is demonstrated there are associated adverse impacts. The proposal is in a main urban area and while the principle of development is acceptable, the detailed consideration of the proposal against relevant policies and detailed criteria needs to be undertaken before a recommendation can be made on the application.

Community Balance and the Character of the Area

The adopted Housing SPD advises how the Council will deal with applications for houses in multiple-occupation and adopts a threshold approach to controlling student occupancy of residential property, based on assessing the amount of existing such properties within a 100m radius of the application site.

Whilst some objectors conclude the number of HiMO's in the vicinity of the site is already excessive, the adopted methodology considers a wider area of 100m radius around the application site and in this includes parts of Gracedieu Road, Schofield Road and Blackbrook Road.

The 20% threshold allows for consistency in decision-making on proposals for changes of use to HiMO's and has been recognised by appeal inspectors as the level above which the problems associated with higher concentrations of properties occupied in this way occur.

The Council's Geographical Information System holds a database of HiMO's and draws on a number of data sources in the Council and the University to give the most accurate depiction available of HiMO saturation in Loughborough. Within 100m radius of the application site there are calculated to be 91 residential properties of which 13 are houses in multiple occupation. The saturation figure is therefore 14.3%. This figure is lower than the 20% threshold which is given in the Housing Supplementary Planning Document upon which the development is likely to be considered unacceptable. This is an approach which has been supported by Inspectors in previous decisions.

However, the issue is not confined to the mathematics of the case and the other individual considerations must be assessed and a judgment reached as to whether the level of harm that would be caused would be sufficient to support a refusal of planning permission or whether the impact would be so limited as to indicate that planning permission should be granted. These matters are considered below.

Noise and Disturbance

Noise in HiMO's can often be a concern for objectors because of the number of people who are living independently within the property which can be considered to adversely affect the amenity of neighbouring properties.

However, it has proved difficult in past appeals to persuade inspectors of the impact of student or shared living solely on the basis of the SPD, where there has been a lack of other detailed evidence of harm. Information from the Borough Council's Community and Partnerships Department shows that over the past year, there have been 14 recorded incidents relating to anti-social behaviour on Blackbrook Road, Gracedieu Road, New

Ashby Road and Schofield Road. However, it is not possible to identify that student behaviour was the primary aggravating factor.

The property currently has 3 bedrooms capable of being occupied by a family. The proposal does not seek to increase the number of bedrooms although it is acknowledged that noise can often be a concern for objectors because of the number of people who are living independently, which can be considered to adversely affect the amenity of neighbouring properties. The number of tenants (up to 6) could potentially result in additional noise. Although the bedrooms could potentially fit a double bed, it does not necessarily follow that 6 people would occupy the house – but the lawful use limits the number to 6. It is considered that the maximum number of occupiers would be no greater than occupation by a family. The property is a mid-terraced dwelling with ample communal internal and external amenity spaces. Consequently, it is concluded that concerns that the noise would be significantly greater than a C3 dwelling cannot be sustained.

Whilst it is considered that there may be instances where a clash of lifestyles or behaviour could cause disturbance to adjoining occupiers, it is considered unreasonable to assume this will happen to an extent greater than might be the case with other types of occupation. To recognise this as a potential harm in all cases would be to deny any HiMO uses in an area. Conflict that occurs in individual cases is not a matter that can easily be expressed as a planning objection. Such occurrence can be dealt with by other forms of regulation. A HiMO may of course be occupied by professionals just as easily as students or other persons sharing the property. Due to the level of evidence available, it is concluded that there is insufficient justification to refuse the application on the basis of a perceived increase in noise and disturbance. However, if neighbours habitually experience this, other legislation and measures exist which may provide better control. Taking the above into account, it is considered that the proposal accords with Policies EV/1, CS2 and CS4.

Bin Storage

The property has sufficient space to its frontage or to its rear to accommodate the range of current wheelie bins offered as part of the regular domestic refuse collection service and bins can therefore be stored off the private road on collection days. A gated rear entrance makes it possible for these to be stored in the rear garden, out of public view, although it is unnecessary and unreasonable for the applicant to be compelled to do so. Current arrangements would therefore be acceptable and it is considered that the development accords with Policy CS16.

Car Parking

Concern has been expressed by residents about the impact of the proposal on on-street parking in the area, claiming that the proposal would exacerbate the shortage of street parking, to the detriment of highway safety and amenity. There is no 'residents only' parking permit scheme in operation and the street is not subject to Traffic Regulation Order parking restrictions in the vicinity of the application property. Notwithstanding this, the amount of car parking within the street is limited by the width of the street and the number of existing vehicle crossings serving dwellings on both sides.

The Highway Authority has not commented on the application and standing advice has been used to calculate the recommended car parking requirement which in this case would be for 2 off-street car parking spaces at this property.

To refuse a planning application on highway safety grounds it must be demonstrated that there is severe residual cumulative impacts resulting from the proposal. The property has one current driveway parking space with the potential to provide a second space, should the lawn and screening hedge be removed.

It is pertinent to note that Planning Inspectors have accepted HiMO's in Loughborough where there is substandard or no car parking, because of the proximity to local services, schools and employment. For example, in allowing the appeal at 76 Hermitage Road, the Inspector noted the property was to be occupied by up to 6 persons and considered a single parking space to be adequate (Ref P/17/0072/2). It is also relevant that in allowing the HiMO appeal at 94 Hermitage Road where one space was provided and room for a second space was available, the Inspector considered that the second space was unnecessary and would be damaging to the character and appearance of the street (Ref P/16/0845/2). It is also relevant to consider that No. 137 Park Road, Loughborough was recently granted planning permission for a change of use to a house in multiple occupation (under P/17/0141/2) with no car parking being available.

In the event planning permission is granted for this development, it is recommended that a second parking space not be required by planning condition due to the visual benefits of the lawned and hedged garden being retained within the street scene, and the location of the property which is accessible to nearby schools, town centre facilities and services by other modes of transport than the private car.

Having regard to the above, it is considered that the proposal accords with the National Planning Policy Framework and saved Policy TR/18 of the adopted Local Plan and that severe impacts as described in Paragraph 108 of the NPPF would not be caused by the development.

Conclusion

Decisions on applications need to be made in accordance with the adopted development plan policies and the material considerations that support them, including in this case the adopted SPD on Housing.

It is considered that the dwelling is sustainably located and that the proposed use would be acceptable in terms of the impact on residential amenities of neighbouring occupiers. The use would remain a residential one and, because of the current concentration of HiMO properties within 100m of the site, it is considered that the impact on community balance and the character of the area would be acceptable.

There is sufficient car parking at the property to meet the needs of the development and it is considered that the proposed use would not result in severe residual cumulative impacts, given the absence of parking restrictions and the sustainable location of the site for alternative modes of transport.

Accordingly, having regard to the above considerations, it is recommended that planning permission is granted conditionally.

RECOMMENDATION:-

Grant Conditionally

- 1 The development, hereby permitted, shall be begun not later than 3 years from the date of this permission.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:
1:200 scale block plan
1:1250 scale site location plan
Unnumbered plan received 29th July 2019 - ground floor layout
Unnumbered plan received 29th July 2019 - first floor layout

REASON: To define the terms of the planning permission.

The following advice notes will be attached to a decision:

- 1 DEVELOPMENT PLAN POLICIES RELEVANT TO THIS DEVELOPMENT - Policies CS1, CS2, CS3, and CS4 of the Charnwood Local Plan (2011-2028) Core Strategy and Policies EV/1 and TR/18 of the Borough of Charnwood Local Plan have been taken into account in the determination of this application. The proposed development complies with the requirements of these policies and there are no other material considerations which are of significant weight in reaching a decision on this application.
- 2 Planning permission has been granted for this development because the Council has determined that, although representations have been received against the proposal, it is generally in accord with the terms of the above-mentioned policies and, otherwise, no harm would arise such as to warrant the refusal of planning permission.
- 3 Discussion with the applicant to seek an acceptable solution was not considered necessary in making this decision. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraph 38) and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.

- 4 In order to arrange for the delivery of the necessary equipment for participation in the refuse and recycling service and to ensure that the properties receive a collection service as appropriate, please contact Environmental Services on 01509 634538 or recycle@charnwood.gov.uk, before the first property is completed.

