

Report of the Chief Executive

APPEAL DECISION

APPLICATION NUMBER:	20/00891/FUL
LOCATION:	Central College Nottingham High Road Chilwell Nottinghamshire NG9 4AH
PROPOSAL:	Conversion of existing college building to student accommodation comprising 162 bedrooms including external alterations

APPEAL ALLOWED AND COSTS AWARDED

The application was recommended for planning permission at Planning Committee on 1 September 2021. The Committee resolved to refuse planning permission for the following reasons:

1. The development by virtue of its proximity to existing residential neighbours would result in a substantial level of noise and disturbance which would cause a significant loss of amenity. Furthermore, insufficient parking has been provided on site which would result in parking problems in the immediate area. Accordingly, the proposal is contrary to the aims of Policy 10 of the Broxtowe Aligned Core Strategy (2014), Policy 17 of the Part 2 Local Plan (2019) and the NPPF (2021).

The Inspector considered the main issues were the impact on living conditions of neighbouring occupants with respect of noise, disturbance and overlooking and parking pressure in the surrounding area.

Living conditions

The Inspector recognised that there is no policy preventing student housing within residential areas. A noise survey was undertaken by the appellant which indicated high levels of background noise already in the area and that a Student Living Management Plan would be secured by the Section 106 Agreement. In respect of students occupying the building, the Inspector stated the following *“For the most part, the activity would be related to normal residential use of the building, and there is no reason to consider that this would be particularly loud, continuous or invasive, such that it would significantly affect the living conditions of neighbouring occupants.”* The Inspector stated that the mitigation from appropriate windows, enclosed courtyard area by the building itself and separation distances would reduce the noise heard by neighbouring properties.

The Inspector considered that 27 metres separation distance to neighbouring properties was acceptable in terms of not resulting in a harmful level of overlooking. The Inspector highlighted that there was no reason to think that a student would be more likely to engage in levels of prolonged overlooking than a residential flat. It was also considered that when activity would be at its highest (in the evening), neighbouring properties would most likely draw curtains and blinds.

The Inspector considered that it was assumptions that lead to concerns to anti-social behaviour and increased risk of crime from students. It was not clear if the examples provided by residents in respect of incidents in Nottingham city in relation to students and anti-social behaviour were isolated incidents or representative of wider student populace.

The Inspector recognised that the site would be fully managed and monitored as opposed to ad-hoc shared use of mixed dwellings that are not regularly monitored. In a large facility such as this, it is expected that an element of self-policing would occur in respect of noise and disturbance, in particularly at unsociable hours.

The Inspector was satisfied with the mitigation measures of the Student Management Plan, a 24-hour manned phone line for students and neighbours and a commitment not to access the site from Dale Lane.

The Inspector concluded that the proposal would not lead to harmful levels of noise, disturbance or overlooking that would undermine the living conditions of neighbouring occupants.

Parking

In relation to parking pressure, the Inspector recognised that the information provided in the Transport Assessment (TA) was realistic. The inspector recognised the convenience of the tram and bus services and local shops and that car ownership would be significantly reduced because of this. In addition, the appellant would promote the development as car-free, including a condition in the Section 106 Agreement that students would be prevented from obtaining parking permits and free annual tram passes would be provided. The Inspector concluded that car ownership would be low and that the on-site parking would exceed the Council's standards, therefore parking on nearby streets would be indiscriminate. The Inspector stated that the Council did not specifically challenge the appellants technical evidence in respect of parking, nor did the NCC in its response. The Inspector stated that concerns were raised in regards to the potential cumulative parking demand from future applications on the site but no further applications have been granted and there is no certainty over the quantum or type of development that may come forward.

The Inspector concluded that the appellant's technical information was robust in demonstrating that the student accommodation would generate significantly less vehicular traffic than its past use as a college and that sufficient parking was available on-site for the expected demand of cars and therefore the proposal would not lead to harmful increases in on-street parking demand on surrounding streets.

Principle

The Inspector recognises that the Council does not have a policy restricting student housing in certain areas. Whilst there was a preference for alternative housing for the site from comments made in representations, the appeal must be decided on the application as proposed. It is not uncommon for large sites to be split into phases. The site is in a highly accessible location and there is no firm evidence that there is

an overconcentration of students in the Chilwell/Beeston area and additional residents would generate additional economic activity.

Character and Appearance

The Inspector concluded that the alterations to the building are modest in scope and acceptable and that the proposal would not harm the setting of Chilwell Cottage Conservation Area.

Flood Risk and Ecology

The Inspector did not raise any concerns in respect of ecological impacts or flood risk.

Construction Impacts

The Inspector recognised that construction works would be temporary and that a condition in respect of working hours would help limit disruption.

Planning Obligations

The Inspector concluded that the Section 106 Agreement to pay £35,113.50 for the provision of primary health care, namely additional GP facilities in the area, £7,500.00 to provide for monitoring of the implementation of the proposed travel plan, which would be separately secured by condition were both accepted.

The request for £72,693.00 sought by the NHS Trust was not accepted as the Council stated that it had no policy basis for this contribution and the evidence provided by the trust did not demonstrate that it was working above 100% capacity in the Broxtowe area and therefore is unjustified.

Conditions

The Inspector accepted the majority of the conditions put forward by the Council but amended these where necessary. A condition in respect of securing the Travel Plan was included.

COSTS AWARDED

The Inspector stated that the applicant's case was that the Council, through the actions of its planning committee in refusing the application contrary to the recommendation of officers, demonstrated unreasonable behaviour as the decision was reached without proper reference to the technical evidence advanced as part of the application to address issues of noise, disturbance and parking that formed the reason for refusal. Moreover, it is argued that the planning committee failed to identify alternative evidence to substantiate its reason for refusal, a position the Council has persisted with at appeal.

The Inspector recognised that the appellant had an opportunity to address parking provision from the deferral of the application from July to September's meeting. In

September's meeting debated the lack of parking and potential congestion on neighbouring streets, noise during building works and potential disturbance from students once the building was occupied. Concerns over noise and overlooking were raised, on the basis of the scale of the development and its proximity to neighbouring dwellings. The Inspector notes that these minutes provided limited detail as to the analysis carried out by members at the meeting in determining to refuse the application.

The Inspector stated that in relation to levels of noise, disturbance and overlooking, the Council's case at appeal was not supported by specific evidence and was also based on assumptions and generalisations about student behaviour.

The Inspector stated that the Council did not provide any substantive evidence that the number of parking spaces on site provided was insufficient.

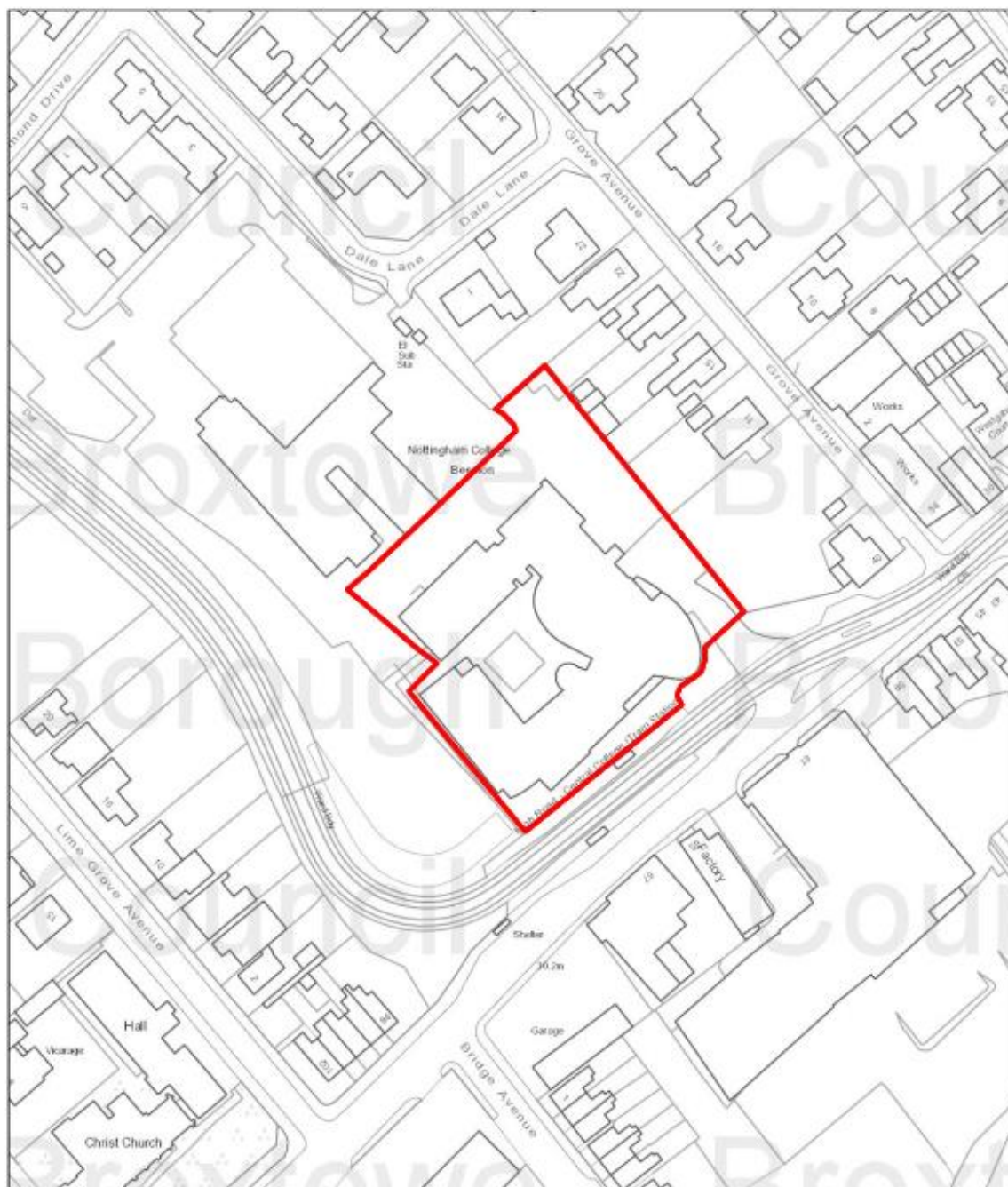
The Inspector acknowledged that the Council made no reference to the technical evidence provided by the appellant which showed a substantial shortfall in predicted trips by car to and from the development than its compared use as a college. The council did not make any reference to the mitigation measures to discourage car ownership either.

The Inspector concluded that there is no evidence, either in the minutes of the committee meeting or the Council's appeal statement, of the Council undertaking a planning balance in respect of the proposal, despite both of the committee reports indicating there would be benefits to the proposal, as did the applicant's evidence. As such, it is unclear that the Council, either at application stage or appeal stage, properly weighed potential benefits of the proposal against perceived harms in reaching its decision.

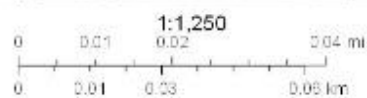
The Inspector concluded that the Council failed to take into account all relevant material considerations, and instead based its decision on vague, inaccurate assertions not supported by objective evidence. Consequently, the Council failed to substantiate its reason for refusal.

The Inspector concluded that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

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