
Appeal Decision

Site visit made on 4 April 2017

by J C Clarke BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 June 2017

Appeal Ref: APP/X2410/W/16/3162995

Essex Lodge, 194 Ashby Road, Loughborough, Leicestershire LE11 3AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Mark & Liam Schofield against the decision of Charnwood Borough Council.
 - The application Ref P/15/1952/2, dated 25 September 2015, was refused by notice dated 13 May 2016.
 - The development proposed was described in the application as '*Application for extension to existing student halls (currently 15 rooms) to provide 3 new cluster apartments (1x6, 1x4, 1x3 bed), and for separate building to provide 4 new cluster apartments (1x4, 1x5, 1x6, 1x7 bed). In addition to include 1 warden apartment within existing building (resulting in loss of 1 student room)*'.
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Decision

1. The appeal is allowed and planning permission is granted for an Extension to student halls to provide 3 cluster apartments (1x6, 1x4, 1x3 bedrooms) 1 warden apartment, and erection of building for 3 cluster apartments (1x4, 1x6, 1x7 bedrooms) at Essex Lodge, 194 Ashby Road, Loughborough, Leicestershire LE11 3AG in accordance with the terms of the application, Ref P/15/1952/2, dated 25 September 2015, subject to the conditions listed in annex 1.

Application for costs

2. An application for costs was made by Mr Mark & Liam Schofield against Charnwood Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development in the header at the start of my decision is based, in accordance with normal practice, on that given in the application form. However, revised plans were submitted to the Council before it determined the application including a reduction in the number of units in the proposed separate new building. I have determined the appeal on the basis of the revised plans and a revised description of the development is therefore set out in my formal decision.
 4. Following the Council's decision on the application, the appellants have submitted a planning obligation, in the form of a unilateral undertaking. I set out my findings regarding this later in my decision.
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5. After my site visit, the Council adopted its Housing Supplementary Planning Document (SPD) May 2017. The Council has also indicated that the 'Student Housing Provision in Loughborough' SPD 2005 (the 'Student Housing SPD'), referred to in its decision, is no longer in force. In the interests of fairness I gave the main parties an opportunity to comment on these new circumstances and have taken the comments received into account. This change of circumstances has not however affected the overall outcome of the appeal.

Main Issues

6. The main issues are:
- (a) The effect of the proposed development on the living conditions of residents who live in the surrounding area, particularly in respect of noise, disturbance and other forms of anti-social behaviour; and
 - (b) The effect of the proposed development on the balance between the student and settled community in the surrounding area.

Reasons

Policy context

7. The development plan for the area, with which my decision must accord unless material considerations indicate otherwise, comprises the saved policies of the Borough of Charnwood Local Plan (BCLP) 2004 and the Charnwood Local Plan Core Strategy (CLPCS) 2015. The National Planning Policy Framework (the 'Framework') is also an important consideration and the Planning Practice Guidance (PPG) provides supporting advice including sections specifically covering student housing¹ and noise.
8. Saved policy H/12 of the BCLP states that: *'planning permission will be granted for new buildings or the re-use of non-residential properties specifically for student accommodation at locations on, or readily accessible by cycle, public transport or on foot to, the university and college campuses...'*. The appeal proposal would be in such a location.
9. The Council's Housing SPD 2017 sets out a threshold mechanism for controlling the concentration of Houses in Multiple Occupation (HMO) in any given area. However, as the appeal proposal would not provide an HMO, this mechanism is not applicable to it. This approach is consistent with the adopted development plan which contains (in policy CS4 of the CLPCS) support for limiting the concentration of HMOs but no equivalent support for limiting the concentration of purpose-built accommodation with a warden such as that subject to appeal. As the previous Student Housing SPD is no longer in force it is not a material consideration in my decision.

Living conditions

10. Paragraph 69 of the Framework establishes that planning decisions should aim to achieve places which promote safe and accessible environments where crime and disorder do not undermine quality of life or community cohesion. Paragraph 123 establishes that planning decisions should avoid noise from giving rise to significant adverse effects on health and quality of life as a result of new development.

¹ Paragraph: 021 Reference ID: 2a-021-20160401

11. The appeal site includes a substantial detached building, currently used as student accommodation, set in extensive grounds alongside the busy A512 (Ashby Road). The area around the site contains a mix of student housing and other residential uses, and the properties to either side at 192 and 196 Ashby Road are used as student accommodation. The proposed development would extend the existing building and form a new block to provide a total of 44 student bedrooms, forming a net increase of 29 over the existing figure.
12. Ashby Road provides a major thoroughfare for students passing to and from the university campus, Loughborough town centre and surrounding areas. Representations submitted by or on behalf of local residents suggest that at night time and into the early hours of the morning this can result in large groups of students moving along the road, and that resultant incidences of noise and other forms of anti-social behaviour (ASB) have been the source of complaints for many years during term time. Figures supplied by the Council's Community Safety Team (CST) indicate that there were 280 incidents of ASB along Ashby Road between 1 April 2015 and 31 March 2016 and these show a notable spike during the university term time in September-December.
13. The figures provided by the CST relate to the whole of Ashby Road, which is lengthy and extends into the town centre. The police records provided by the appellants show that ASB incidents occur to a similar frequency in summer when most students would be absent. I also have only limited details before me of reported incidents including the 105 incidents between 28 April 2016 and 8 February 2017 reported by Storer and Ashby Residents Group (SARG). However, whilst a Student Street Support Scheme (SSSS) has been introduced the update on the operation of this provided by the appellants indicates that it has had mixed success in reducing complaints of student related misbehaviour. The evidence before me as a whole indicates that students contribute substantially to noise, disturbance and other forms of ASB in the general area.
14. The appeal proposal would, however, be of limited scale compared to the numbers of students who live in the area (both on and off campus) and who are likely to use Ashby Road as a thoroughfare. Only a minority of its occupiers at most are likely to cause ASB. The Student and Parking Management Plan would also introduce a 24 hour warden service. This and other proposed measures such as student behaviour contracts with report back procedures to the university and on-site CCTV provision would be likely to effectively control student behaviour within the site.
15. I accept that the appeal proposal may lead to some additional noise or other forms of ASB outside the site along Ashby Road. However, any incidents which would be attributable to it would, given its limited size in relation to the overall student population, be of limited frequency at most. Given this and the benefit that would arise from introducing a warden service which is currently lacking from the site I conclude that the proposal would not cause unacceptable effects in this respect.
16. I acknowledge the concerns of the Council and interested parties concerning the cumulative impacts of the proposal with other accommodation in the area. I also recognise that the Council has for many years sought to limit the concentration of student accommodation through its previous Student Housing SPD. However, as stated earlier that SPD is no longer in force and is not supported by the development plan.

17. The fact that the immediate neighbours at 192 and 196 Ashby Road are in use as student accommodation is also an important material factor in support of the proposal. The proposed extension and new building would also be separated to some extent from the rear boundary of the site, and would be further separated from the nearest dwellings in that direction off Westfield Drive by the long rear gardens of those dwellings.
18. I have noted the reference to appeal decision APP/X2410/A/02/1096353, dating from 2003, concerning proposed student accommodation at a nearby site at Ashby Grove, which was dismissed due to the Inspector's concerns that it would cause additional noise and disturbance. However, that proposal would have increased student numbers by 168 i.e. over 5 times the net increase associated with the current proposal.
19. I conclude that the proposal would not cause material harm to the living conditions of nearby residents or conflict with relevant provisions of policy CS2 of the CLPCS, saved policy EV/1 of the BCLP, the Framework or the PPG in relation to this issue.

Community balance

20. Paragraph 50 of the Framework refers to the need to create sustainable, inclusive and mixed communities. The previous Student Housing SPD identified problems which can occur as a result of high levels of student occupancy such as erosion of the sense of community, exclusion of first time and young family buyers to the detriment of local schools, and congestion during term times sharply contrasted with an air of abandonment during vacations.
21. Data provided by the Council indicates that within 7 Census 'output areas' around the appeal site 365 of the 1190 properties registered for Council tax in April 2015 were at least partly occupied by students. There were also 2483 bed spaces in student halls of residences. The Council has subsequently identified that 11 out of 33 properties within 100 metres of the site are used as HMOs. It is clear that there is a high concentration of student households in the area.
22. However, as stated earlier the Student Housing SPD is no longer in force and the currently adopted development plan and Housing SPD 2017 do not seek to control the concentration of uses of the type subject to appeal. Whilst the appeal proposal would clearly add to the student population in the area, its effect on the overall balance between the student and non-student population would be limited. It would not (in contrast to many proposals for HMOs) lead to the loss of any existing housing for the settled community. It would also be likely to have some effect in limiting demand for HMOs. Many of the problems typically associated with proliferations of student housing, such as management of rubbish and property maintenance would be addressed by the presence of a warden and the other aspects of the Student and Parking Management Plan.
23. Having regard to these points, the proposal would not lead to any material harm, or substantive conflict with policies of the development plan or the Framework, in relation to 'community balance'.

Other Considerations

24. It has been suggested that there is no need for the proposal. However, the appeal proposal would provide a form of accommodation which paragraph 5.26 of the CLPCS identifies as being in limited supply. Whilst I note that planning permission (reference P/16/2558/2) has, following adoption of the CLPCS, been granted for the erection of student accommodation to provide 617 bed spaces within the university campus, of which 548 would be net additional bed spaces, there is little evidence before me concerning the delivery programme and funding of that scheme. The Council has not sought to argue that there is no need for the proposal.
25. In addition, it appears to me that the Council has a clear aim of limiting the heavy reliance of the university on HMO accommodation and I note that SARG states that in its area alone there are over 400 HMOs. The Council officer report on the application indicates that the appeal proposal would provide '*...the preferred method of accommodation for students in Loughborough*'.
26. Whilst I note that SARG identifies that of 402 HMOs in its area in 2015/16, 291 had empty beds, it is not clear over how long these vacancies arose or for what reason and this point does not demonstrate that the appeal proposal would not bring benefits in terms of the factors set out above.
27. Whilst I have noted the suggestion that the site would provide a suitable location for social housing I am not aware of any firm alternative proposals in this regard. I have in any event determined the appeal as I must on its own merits.
28. I note that the proposal would result in the removal of some trees from the site. However, many of the existing mature trees would be retained and further landscaping could be required by condition. Whilst the site may be used by owls there is limited evidence before me concerning to what extent this is the case. The parties have not drawn my attention to any wildlife designation affecting the site.
29. It has been identified that student parking is an existing problem in the surrounding area. The Council has also indicated that the number of car spaces provided within the site (17) would be below the standards of the highway authority. However, the Council has accepted that the proposed Student and Parking Management Plan would provide a suitable mechanism to ensure that the available spaces would be managed to prevent overspill. Given the generally low car ownership rates amongst students I agree that this is the case. The Plan would also cover arrangements for drop off and pick up at the start and end of each term.
30. The proposed development would be within the Ashby Road Conservation Area (CA) this part of which is characterised by generally large detached buildings, including Victorian villas set within extensive plots. The appeal site, by virtue of its existing building set within a spacious and verdant plot, contributes positively towards this character. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Although the proposed new block would be prominently located this and other aspects of the proposal would be of a suitable design and siting. Whilst the proposal could cause a small increase in noise and

disturbance this would not be such as to materially harm the significance of the CA. The proposals would preserve the character and appearance of the CA and would not harm the setting of any other designated heritage asset.

Planning obligation

31. The appellants' submitted planning obligation would secure the provision of a Student Parking and Management Plan. This would cover various details including the on-site warden service, arrangements for handling complaints of alleged ASB, the allocation and management of parking spaces, waste storage and collection, on-site security and student behaviour contracts.
32. Paragraph 203 of the Framework states that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Under Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) (the 'CIL Regulations') a planning obligation may only constitute a reason for granting planning permission for a proposed development if, amongst other things, the obligation is necessary to make the development acceptable in planning terms.
33. I agree with the Council that the matters set out in the obligation are important. However, as they would be equally enforceable by means of a condition the submitted planning obligation is un-necessary and I have given it no weight in my decision.

Conditions

34. My list of conditions attached as annex 1 is based on the draft list supplied by the Council, albeit with some amalgamations and other amendments mainly to ensure that they are sufficiently precise and in the interests of simplicity.
35. My condition 1 is a standard time limit condition. My condition 2, identifying the approved plans is needed in the interests of certainty. My conditions 3 and 4, requiring future approval of facing materials and other details are needed to preserve the character and appearance of the Ashby Road Conservation Area. My conditions 5 and 6 covering landscaping, 7 and 8 covering tree protection, and 9 covering bin storage are needed to ensure a satisfactory appearance. My condition 10 covering cycle parking facilities is needed in the interests of sustainable transport provision.
36. My condition 11 is needed to ensure satisfactory drainage provision within the site. My condition 12 covering boundary treatment is needed to ensure a satisfactory visual appearance and levels of privacy. My conditions 13 to 17, covering various highway matters are required in the interests of highway safety. My condition 18, requiring the approval and implementation of a Student and Parking Management Plan, is needed in the interests of protecting the living conditions of occupiers of nearby dwellings and to minimise any on street parking in the interests of highway safety.

The overall planning balance and conclusions

37. In support of the proposal, it would create new managed student accommodation of a type which is in limited supply in Loughborough and which the Council identifies as the preferred method of accommodation for students in the town. It is also in an area which is within easy walking distance of the university. These benefits carry substantial weight in support of the proposal.

38. I have also found that, notwithstanding the concerns of residents about existing levels of noise, disturbance and ASB the appeal proposal would not substantially change existing living conditions in the area. I have also not identified any material harm in relation to 'community balance'. Furthermore, the proposal would accord with the development plan and constitute sustainable development as set out in the Framework.
39. For the reasons given above I conclude that the appeal should be allowed.

Jonathan Clarke

INSPECTOR

ANNEX 1

CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in schedule A.
- 3) No building materials shall be placed on site until samples of all external facing materials, including those to be used on the walls and roofs, have been submitted to and approved in writing by the local planning authority. The relevant works shall only be carried out in accordance with the approved details.
- 4) No building materials shall be placed on site until details of the design and materials of the following have been submitted to and approved by the local planning authority:
 - (a) all proposed chimneys and their pots;
 - (b) verges and eaves;
 - (c) windows and doors (including colour); and
 - (d) brickwork embellishments to the proposed lintels and cills.The development shall only be carried out in accordance with the approved details.
- 5) Within one month of the date of commencement of works on site a landscaping scheme to include the following details shall be submitted to the local planning authority for its approval:
 - (a) the treatment proposed for all ground areas including hard areas;
 - (b) full details of proposed tree and other planting, including the species, sizes, numbers and densities of all plants;
 - (c) finished levels and contours;
 - (d) any structures to be erected or constructed;
 - (e) all above and below ground functional services;
 - (f) all existing trees, hedges and other landscape features indicating any to be removed; and
 - (g) a programme for implementation of the proposed landscaping.
- 6) The landscaping works approved under condition 5 shall be carried out in accordance with the approved programme. Any trees or plants which are removed, die, become severely damaged or diseased within 5 years of being planted shall be replaced in the following planting season by trees or plants of a similar size and species to those originally required to be planted.
- 7) No site clearance, preparatory work or development shall take place until each tree shown to be retained on the approved plan has been protected in accordance with details which shall firstly have been submitted to and approved in writing by the local planning authority. Each tree shall be protected in the agreed manner for the duration of building operations on the site. Within the areas agreed to be protected, the existing ground

level shall be neither raised nor lowered, and no materials or temporary building or surplus soil of any kind shall be placed or stored thereon. If any trenches for services are required in the protected areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5 centimetres or more shall be left un-severed.

- 8) No development, including site works, shall begin until an arboricultural method statement referring to the trees to remain has been submitted to and agreed in writing by the local planning authority. The document shall accord with BS5837:2012 and BS3998:2010 and shall include full details of:
 - (a) all proposed access routes for construction machinery and locations for building materials storage;
 - (b) the proposed means of construction of the new access drive and parking area, and revised parking area to the front of the existing building, shown on drawing no. 4560/06c, including cross-sectional construction drawings, product specifications for cellular confinement systems and finished levels;
 - (c) management proposals for the trees to be retained, including pruning proposals, mulching and aeration works; and
 - (d) the method for construction of the development, detailing clearly how the works shall be carried out to avoid damage to the trees to be retained.
- 9) Notwithstanding the approved plans and other details, the development shall not be brought into use until bin storage facilities have been provided within the site in accordance with details which shall have firstly been submitted to and agreed in writing by the local planning authority. The bin storage facilities shall thereafter be retained for this use at all times.
- 10) Notwithstanding the approved plans and other details, the development shall not be brought into use until cycle parking facilities have been provided within the site in accordance with details which shall have firstly been submitted to and agreed in writing by the local planning authority. The cycle parking facilities shall thereafter be made available for these purposes.
- 11) Within one month of the commencement of development, details of the proposed method of foul sewage and surface water disposal shall be submitted to the local planning authority for written approval. No building shall be brought into use until such drainage works as are needed to serve it have been completed in accordance with the approved details.
- 12) Notwithstanding the approved plans and other details, within one month of the commencement of development, a scheme for the treatment of the application site boundaries shall be submitted to the local planning authority for written approval. The approved boundary treatment shall be completed in accordance with the approved details before the development is brought into use and thereafter retained.
- 13) Prior to the occupation of any part of the development hereby approved, the new vehicular access shall have been surfaced in tarmacadam, concrete or similar hard bound material (not loose aggregate) for a

distance of at least 10 metres behind the highway boundary. It shall be so maintained at all times thereafter.

- 14) Notwithstanding the approved plans, the proposed access drive shown serving the new car parking area shall have a minimum width of 5 metres (with 0.5 metre clear margins on each side) for at least the first 5 metres behind the highway boundary and have a drop crossing of a minimum size as shown in Figure DG20 of the 6CsDG at its junction with the adopted road carriageway. The new access drive shall be completed prior to the occupation of any part of the development hereby approved, and thereafter retained as such at all times.
- 15) No vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected across or within the area covered by the vehicular access at any time.
- 16) No part of the development shall be brought into use until parking and turning facilities have been provided in accordance with the details shown on drawing no. 4560/06c. The parking and turning facilities shall not be obstructed in any way or at any time that would prevent such use. The car parking areas shall be maintained with a minimum clear margin of 0.5 metres around the outside edge of the spaces.
- 17) No part of the development shall be brought into use until visibility splays of two metres by two metres have been provided alongside the highway boundary on both sides of the new access and the areas within them laid out and surfaced in accordance with details which shall previously have been submitted to and agreed in writing by the local planning authority. No fence, wall, structure or hedge or other planting shall be erected, placed or planted over a height of 60cm within the splay areas which are thus defined.
- 18) No part of the student accommodation hereby permitted shall be brought into use until a Student and Parking Management Plan (SPMP) has been submitted to and approved in writing by the local planning authority. The SPMP shall include, but not be limited to:
 - (a) arrangements for the provision of 24hr on-site warden management of the premises;
 - (b) details of the warden in control of and responsible for the management of the student accommodation (including a contact telephone number and email address in the event of any complaint);
 - (c) arrangements for maintaining a record of all complaints received by the warden in relation to any incidents of alleged anti-social behaviour caused by occupiers of the site, together with arrangements for inspection by the local planning authority;
 - (d) details of a sign to be erected on the site displaying a contact telephone number and email address of the warden in the event of any complaint;
 - (e) Detailed arrangements for the handling of student arrivals and departures at the start and end of the academic year including the delivery and removal of personal possessions by friends and/or relatives;

- (f) details of the arrangements for the storage and collection of waste arising from the development;
- (g) details for managing advertisements connected with vacancies, lettings or for sale signs on the site;
- (h) details of student behaviour contracts which are to form part of all occupiers' tenancy agreements;
- (i) details of the arrangements for on-site security; and,
- (j) arrangements for an ongoing programme of monitoring and review of the effectiveness of the SPMP.

The development shall be operated in accordance with the approved SPMP at all times.

SCHEDULE A – LIST OF PLANS REFERRED TO IN CONDITION 2

<u>Reference number</u>	<u>Title</u>
4560/06c	Proposed site layout
4560/05b	Proposed elevations
4560/02d	Proposed ground floor
4560/03c	Proposed first floor
4560/04c	Proposed second floor