

Report to Planning applications committee

Item

10 September 2019

Report of Area Development Manager

Subject 19/01179/VC - Stretton School 1 Albemarle Road
Norwich NR2 2DF

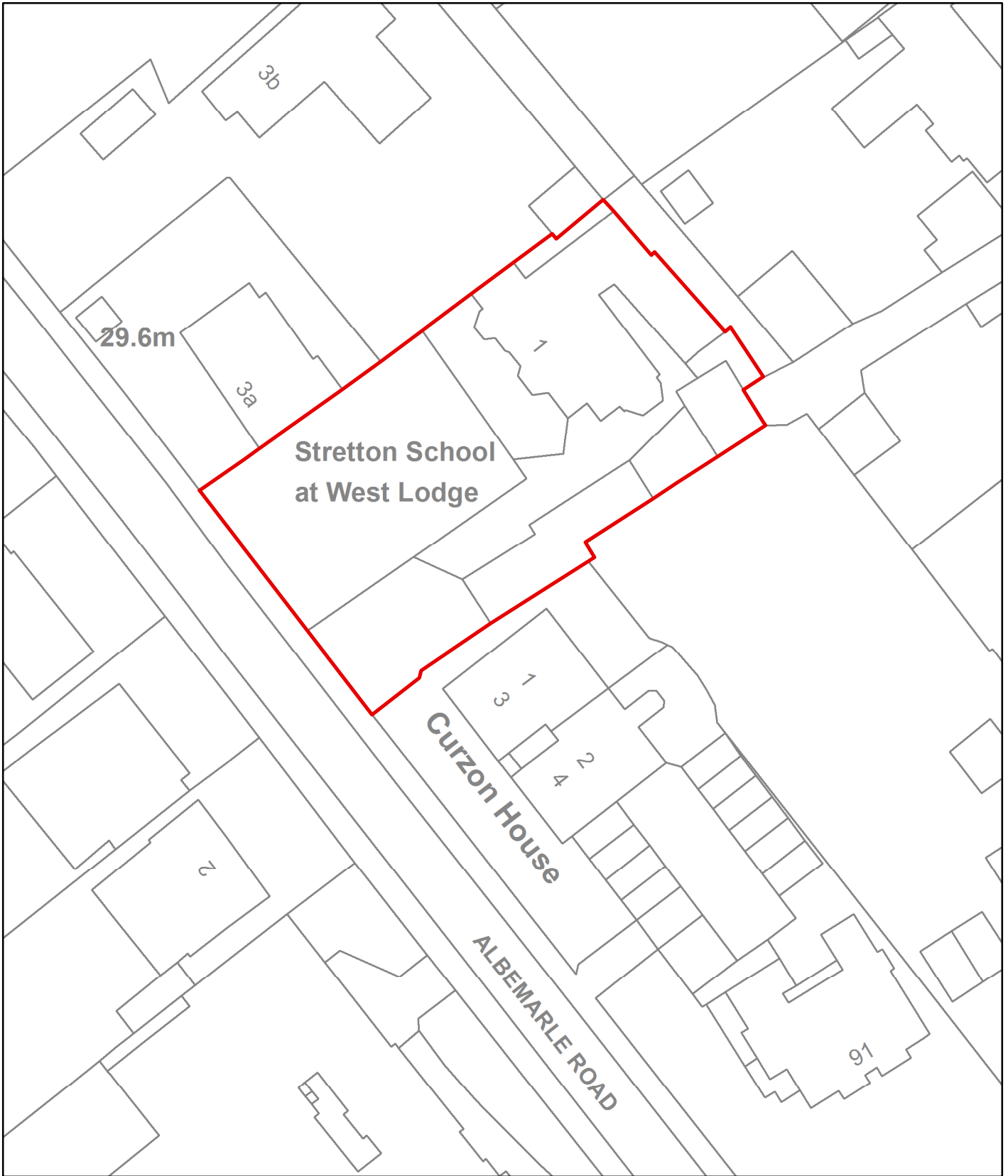
4(d)

**Reason
for referral** Objections

Ward:	Eaton
Case officer	Maria Hammond - mariahammond@norwich.gov.uk

Development proposal		
Removal of Condition 1: The occupation of the dwelling known as West Lodge shall be limited to a person or persons (and their family) having a close connection with the adjoining nursery school (Stretton School) by virtue of employment by the school, or as owner of the school under appeal of 10/01159/VC under reference APP/G2625/A/11/2146511.		
Representations		
Object	Comment	Support
7	0	1

Main issues	Key considerations
1	Principle – effect of change of use
2	Amenity
3	Transport
Expiry date	10 October 2019
Recommendation	Approve



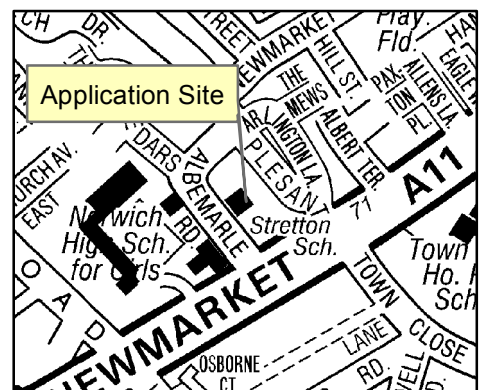
© Crown Copyright and database right 2019. Ordnance Survey 100019747.

Planning Application No 19/01179/VC
 Site Address West Lodge Stretton School
 1 Albemarle Road
 Scale 1:500



NORWICH
City Council

PLANNING SERVICES



The site and surroundings

1. The application concerns the dwelling known as West Lodge on Albemarle Road. The Stretton School nursery formerly operated from buildings within the original grounds of the dwelling but this closed in 2018. The nursery school was established and run by the former occupant of the dwelling.
2. The dwelling is characteristic of this part of the Conservation Area being a substantial detached Victorian dwelling. Albemarle Road is largely residential, other than the nursery school and also Norwich High School for Girls which lies to the south of the dwellings along the southern side and has a vehicular entrance from the road at its northwestern end. Albemarle Road becomes The Cedars beyond this entrance and gives access to a sheltered housing development.

Constraints

3. The site is in the Newmarket Road Conservation Area and a critical drainage catchment.

Relevant planning history

4. The application site and adjacent buildings used to form one site prior to 1965 and permission was granted at some time between 1948 and 1964 for a block of 4 no. flats in the grounds of West Lodge where Stretton School came to be based.
5. Permission was granted in November 1963 for a change of use of one of the 4 no. flats to use as a nursery school (application reference 27865). A condition was placed on the approval of the change of use that the school should operate for the benefit of the applicant only.
6. Internal alterations to the nursery school were permitted under application reference 28082 in January 1964.
7. Permission was granted in May 1969 for the change of use of the whole of the ground floor of the dwelling (West Lodge) for use as a nursery school under application reference 35678 and again a condition was placed on the approval, but this time more stringently, that the permission was personal to Mrs Y Barnett and that on her discontinuance of occupancy of the premises the use would revert back to residential use (condition 2)
8. In 1972 planning permission was granted for the erection of a nursery school and double garage (40672). The use of the nursery school was not subject to any restriction so could be operated by Mrs Y Barnett or anyone else.
9. In 2009 permission was granted for a first floor extension to the nursery school building (09/00672/F) subject to a condition that upon Mrs Y Barnett's discontinuance of residence at the premises, the use shall be discontinued and returned to residential.
10. In 2010 two applications were considered. One proposed the removal of condition 2 of 35678 (the 1969 permission) (10/01158/VC) and one proposed the removal of condition 4 of 09/00672/F (10/01159/VC). Both applications were refused and subject to appeals.

11. The appeal concerning the 1969 condition was dismissed. The Inspector considered that the use of the ground floor of West Lodge for part of the nursery school had lapsed and it was not therefore necessary to remove it.
12. However, the appeal against removal of the 2009 condition was allowed. The Inspector considered there “could be real problems with regard to the residential occupiers of the house if it were to be occupied as a separate dwelling by people unconnected to the school”. The decision was therefore to allow the appeal but rather than remove the condition, it was subject to a new condition which removed the reference to a particular individual, but maintained the requirement for West Lodge to be occupied only by the owner/employee of the school.
13. This new condition applied to the permission allowed on appeal is that which is subject of this application.
14. The nursery school has ceased to operate and in July 2019 planning permission was granted for the change of use from nursery school to ancillary residential use (C3) including part demolition of existing buildings and creation of parking area (19/00467/F). This applies only to the school buildings to the eastern side of the plot.
15. The site as a whole therefore has permission for residential use, but the dwelling itself is still subject to the occupation restriction in accordance with condition 1 of 10/01159/VC.

The proposal

16. The application proposes removing that condition which manages the occupation of the dwelling.
17. Condition 1 of permission 10/01159/VC states:

‘The occupation of the dwelling known as West Lodge shall be limited to a person or persons (and their family) having a close connection with the adjoining nursery school (Stretton School) by virtue of employment by the school, or as owner of the school’.

Reason:
‘To be consistent with previous permissions granted on this site and to ensure that the use of the site returns to residential use.
18. Removing the condition would retain the lawful use of the property as a dwellinghouse but remove any restriction on who can occupy it.

Representations

19. Advertised on site and in the press. Adjacent and neighbouring properties have been notified in writing. 8 letters of representation have been received citing the issues as summarised in the table below. All representations are available to view in full at <http://planning.norwich.gov.uk/online-applications/> by entering the application number.

Issues raised	Response
It would be very good if the property reverted to residential use only with no school use. This would reduce traffic, pollution and noise.	Support noted.
The residents of Albemarle Road and Mount Pleasant already struggle with traffic, congestion and pollution associated with the three other schools in what is a small residential street which also has a large sheltered housing scheme, requiring emergency vehicle access at all times.	See main issues 2 and 3
The application to remove the current condition may allow someone to operate the whole site as a school. This would exacerbate existing traffic problems and would be a backward step.	See main issue 1
Removal of this clause also removes the relationship between the residential house and the school buildings that together comprised the ex-Strettons school. It means that the school buildings and residential building would no longer be inter-related. This means that they could be sold off as discrete plots.	See main issue 1
There is very significant concern that part of the site will be sold to become yet another school. Removal of the dependent clause is a step in that direction.	See main issue 1
It makes it easier for a new school/commercial operation to start on the site.	See main issue 1
The school buildings have not been modified in any way and the property is being sold with the benefit of two planning consents. Therefore, a new owner could decide to resurrect the school or to seek approval to use/sell the former school buildings for other non-domestic purposes.	See main issue 1

Assessment of planning considerations

Relevant development plan policies

20. **Joint Core Strategy for Broadland, Norwich and South Norfolk adopted March 2011 amendments adopted Jan. 2014 (JCS)**

- JCS1 Addressing climate change and protecting environmental assets
- JCS4 Housing delivery
- JCS6 Access and transportation

21. Norwich Development Management Policies Local Plan adopted Dec. 2014 (DM Plan)

- DM1 Achieving and delivering sustainable development
- DM2 Ensuring satisfactory living and working conditions
- DM12 Ensuring well-planned housing development
- DM30 Access and highway safety
- DM31 Car parking and servicing

Other material considerations

22. Relevant sections of the National Planning Policy Framework February 2019 (NPPF):

- NPPF2 Achieving sustainable development
- NPPF4 Decision-making
- NPPF6 Delivering a sufficient supply of homes
- NPPF9 Promoting sustainable transport
- NPPF12 Achieving well-designed places

Case Assessment

23. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Relevant development plan policies are detailed above. Material considerations include policies in the National Planning Framework (NPPF), the Councils standing duties, other policy documents and guidance detailed above and any other matters referred to specifically in the assessment below. The following paragraphs provide an assessment of the main planning issues in this case against relevant policies and material considerations.

Main issue 1: Principle of development

24. Key policies and NPPF paragraphs – DM12, NPPF paragraphs 55 and section 5

25. The application proposes removing an occupancy restriction from an existing dwelling. The lawful use of the property would remain as a dwelling only there would be no restriction on who can occupy it.

26. The reason for the existing restriction is due to the close relationship between the dwelling and adjacent nursery school. The use of the nursery is likely to unacceptably impact on the amenity of occupiers of the dwelling if they have no functional connection with the ownership or operation of it. Successive conditions have therefore consistently applied occupancy restrictions although over time this has varied from a personal restriction to the specific operator of the nursery to a more flexible condition to allow anyone who owns or is employed by the nursery.

27. Now the nursery has ceased to operate and planning permission has been granted for the nursery buildings to be used for residential use ancillary to the dwelling, in principle there is no objection to the proposal which would remove a restriction which is no longer necessary or effective.

28. Contrary to what some representations have stated, the proposal would not allow a school use across the whole of the site; the lawful use of the dwelling would remain as a residential dwelling and any change to a non-residential use would require planning permission. Should an application be made for this in future, it would be considered on its merits relative to development plan policies. This proposal concerning the occupancy of the dwelling would have no material effect on the assessment of any future proposal for a new school operation or commercial use.
29. Some representations do, however, correctly identify that whilst the nursery has ceased to operate, until the extant permission for use as ancillary residential space to the dwelling is implemented, there remains a lawful use that could be resumed at any time. As the 1972 permission for the nursery school was not subject to any personal restriction, a new owner or occupier could start the nursery up again. To allow the proposed removal of occupancy condition before the change of use on the adjacent buildings is implemented could result in the dwelling being occupied by persons unrelated to the operation of the nursery and this would be unacceptable in amenity terms.
30. To overcome this, the condition can be varied, rather than removed. Linking the removal of the occupancy restriction to the lawful change of use of the adjacent buildings to residential will ensure that if a nursery use re-commences, the occupancy restriction on the dwelling will continue. However, if the adjacent buildings are changed to residential use, through implementation of the 2019 permission or any other permission to the same effect, the restriction will no longer apply. This resolves any potential disconnect between the two uses should circumstances change. Once the use of the nursery school buildings has lawfully changed to residential, a further planning permission would be required to start a new nursery, or any other, use.

Main issue 2: Amenity

31. Key policies and NPPF paragraphs – DM2, NPPF paragraph 127
32. As considered above, it would be unacceptable in amenity terms for the dwelling to be occupied by persons unconnected to the operation of the nursery and varying the condition overcomes this.
33. The removal or variation of the occupancy condition would have no impact on the amenity of neighbouring occupiers. It is noted that cessation of the use of the nursery will reduce the impacts neighbours have previously experienced.

Main issue 3: Transport

34. Key policies and NPPF paragraphs –DM30, DM31, NPPF section 9.
35. Many of the representations received have cited traffic and parking issues from the operation of the nursery. The proposal in itself would not generate any additional traffic and the closure of the nursery results in significantly less.

Equalities and diversity issues

36. There are no significant equality or diversity issues.

Local finance considerations

37. Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. Local finance considerations are defined as a government grant or the Community Infrastructure Levy.
38. Whether or not a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision on the potential for the development to raise money for a local authority.
39. In this case local finance considerations are not considered to be material to the case.

Conclusion

40. The application proposes removing a condition and, under current circumstances with the nursery school closed, this is acceptable in principle. However, to ensure that the condition does continue to apply if the nursery school use is resumed, it is proposed to instead vary the condition as proposed below. In terms of amenity and traffic impacts, this would either retain the status quo, or revert the whole property to residential use which would result in lesser impacts.
41. The development is in accordance with the requirements of the National Planning Policy Framework and the Development Plan, and it has been concluded that there are no material considerations that indicate it should be determined otherwise.

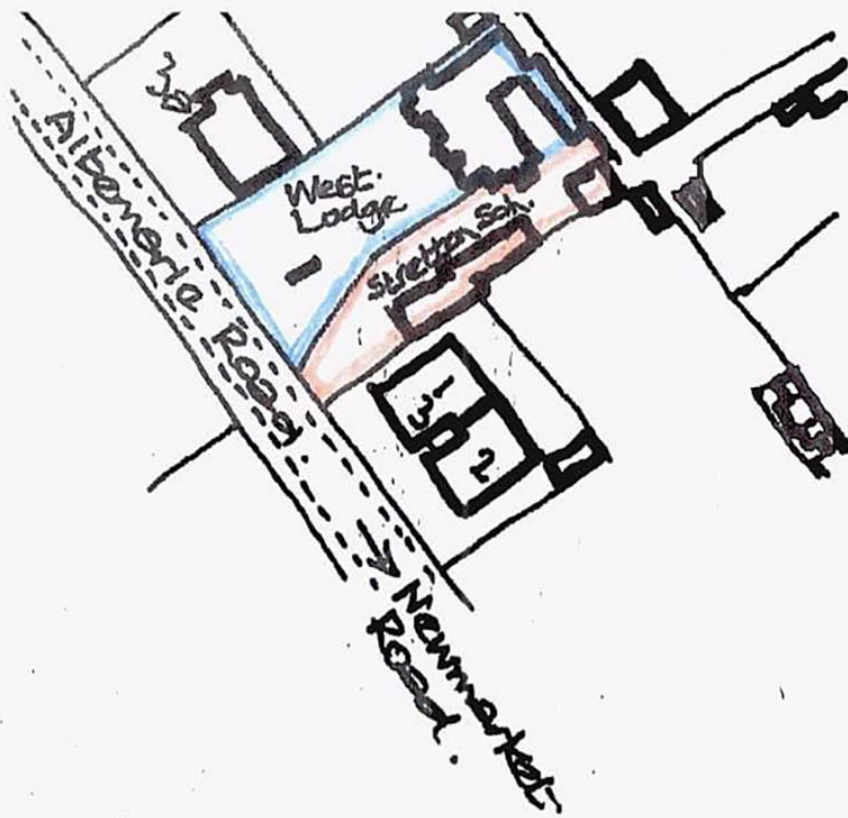
Recommendation

To approve application no. 19/01179/VC - Stretton School 1 Albemarle Road Norwich NR2 2DF and grant planning permission subject to the following condition:

The occupation of the dwelling known as West Lodge shall be limited to a person or persons (and their family) having a close connection with the adjoining nursery school (Stretton School) by virtue of employment by the school, or as owner of the school. Should the lawful use of the adjacent buildings (outlined in red on the location plan received on 17th September 2009 in respect of application 09/00672/F) change to C3 residential use, this limitation shall cease to apply.

Article 31(1)(cc) statement

The local planning authority in making its decision has had due regard to paragraph 38 of the National Planning Policy Framework as well as the development plan, national planning policy and other material considerations, following negotiations with the applicant to vary, rather than remove, the condition the application has been approved subject to appropriate conditions and for the reasons outlined in the officer report.



Location Plan 1:1250

OS Centre Coordinates 622036.5 307419.

Stretton School.
1 Albemarle Road.
Norwich.

