

Your Ref:

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Dear Sirs

**Grafton House and Welbeck House Loughborough Road and 2A Patrick Road, West
Bridgford – Article 4 Direction**

We act for Rockwood Developments Ltd and write to you to object to the making of the Article 4(1) Direction made on 20 May 2025 in respect of Grafton House and Welbeck House Loughborough Road and 2A Patrick Road, West Bridgford (**WBA4D**) by Rushcliffe Borough Council (the **Council**). This letter refers to the Grafton House and Welbeck House as the **Property**.

Planning Application (24/01261/FUL)

On 28 February 2025, the Council refused our clients' planning application for the "proposed Demolition of Grafton House and Welbeck House and construction of 32 No apartments, including car parking and alterations to existing vehicular access" (although the Officer's report on the WBA4D states that this application "was previously approved"). There were five reasons for refusal, but it is the first that has most bearing on this matter:

"1. The proposed development would have a harmful effect on the significance of Grafton House and Welbeck house as Non-Designated Heritage Assets and the proposal would cause harm to their group value. The harm arising from the demolition of these NDHAs would be substantial. It has not been demonstrated that clear justification exists for the proposal given the level of harm arising from the complete loss of NDHA's.

The development would not therefore accord with paragraph 216 of the NPPF which states "The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset".

The proposal would be contrary to criterion d) of Policy 11(1) of the Local Plan Part 2: Land and Planning Policies which states, inter alia, that planning permission will be granted for development on unallocated sites within the

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built-up area where the proposal would not result in the loss of any existing buildings considered to be heritage assets unless the harm is, in the case of designated heritage assets, outweighed by substantial public benefits or, in the case of non-designated heritage assets, the loss of significance to the asset is justified.

The proposal would be contrary to Policy 28 of the Local Plan Part 2: Land and Planning Policies as it would not conserve or enhance the character and appearance of the heritage asset. In applying the balanced judgement under paragraph 9.13 of the LPP2, it is not considered that the scale of harm to the heritage asset is justified.”

Prior Approval Application (25/00794/DEMOL)

On 23 May 2025, three days after making the WBA4D, our clients’ application for prior approval for the demolition of Grafton House and Welbeck House was refused by the Council for the following reason:

“Permitted development rights for demolition under Class B of Schedule 2, Part 11 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended) are revoked under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended).

Accordingly, the demolition of the building does not constitute permitted development and therefore full planning permission is required.”

History

The history of the Property has been set out comprehensively in the Heritage Statement and its Addendum submitted as part of the Planning Application and we don’t intend to rehash this here. However, it is worth emphasising that the Property comprises buildings of the late nineteenth century vernacular with their brick construction. The houses were originally dwellinghouses but have been used as offices/commercial space since the 1960s which has necessitated the extensive alterations and the disappearance of the gardens backing the houses to make way for parking spaces, eroding the demarcation between the two houses.

Heritage

As for the history of the Property, all the heritage issues have been covered in depth by our client’s heritage consultant. It is worth noting some key points in relation to what is purportedly the *raison d’être* for the making of the WBA4D.

1. In Historic England’s HEAN12 Statements of Heritage Significance, heritage interest is said to comprise: (a) archaeological interest (evidential value); (b) architectural and artistic interest (aesthetic value); and (c) historic interest (historical and communal value). In the Heritage Statement, the following is stated:

“Grafton House and Welbeck House are architecturally unexceptional. Both are also altered with few remaining original fixtures and fittings. Their settings have been significantly altered. The historic association of Grafton House with the Trivett family adds a degree of associative historic value, otherwise the buildings have only a limited degree of historic value as buildings illustrative of the widespread construction of suburban housing in the late 19th century and the development of West Bridgford, and very limited aesthetic value as buildings that are altered examples of late Victorian housing, constructed on a large scale and with no attributed architect. Built originally as private residences both have been in use as offices for

a number of years and are no longer domestic in character, both having signage and settings that are clearly commercial.”

2. In relation to the type of houses which comprise the Property, Historic England, in Domestic 3: Suburban and County Houses Listing Selection Guide, states:

“As the building industry became more highly organised in the last quarter of the nineteenth century to meet massive demand, so the plan of the suburban house became more uniform and generally unexceptional.”

We do not dispute the fact that the houses comprising the Property are non-designated heritage assets because they are example of housebuilding of the late nineteenth century which lends itself to being of a minor historic interest but, given their uniformity and unexceptional nature, they are devoid of aesthetic value, which has been further eroded by their extensive alterations and extensions.

3. Historically, the houses had separate gardens. These gardens are now hardstanding with the Property sited in a car park which serves both offices, i.e. no demarcation between the two, thereby further diminishing further their historic value.
4. As our client’s Heritage Statement Addendum makes clear, the Council’s Conservation Officer “finds harm to the group value of late 19th century villa-style dwellings of a similar architectural style and siting along Loughborough Road. However, the officer also concludes that the proposal would not cause harm to the nearby listed buildings or have a harmful effect on the significance of the other non-designated heritage assets.” The Conservation Officer also makes reference to the character of Patrick Road and that “the planning of street trees and shrubbery here has created a more sylvan quieter nature in this residential area”. It is worth noting our clients’ Heritage Statement notes that the Property fronts Loughborough Road, a major artery of Nottingham city centre and the junction outside the Property is a “five-lane section of highway with modern street furniture and road markings”.

Article 4 Directions

The purpose of directions made pursuant to Article 4 of the General Permitted Development Order 2015 (as amended) (GPDO) (A4Ds) is to take away certain permitted development rights as set out in the GPDO. It does not prevent any development but, rather, requires planning permission to be sought for those specific types of development set out in any such A4Ds.

The test for the making of A4Ds is one expediency: the local planning authority must be “satisfied that it is expedient that development...should not be carried out unless permission is granted...” The GPDO does not define “expedient”. The National Planning Policy Framework (December 2024) (NPPF) deals with A4Ds in paragraph 54:

- “54. The use of Article 4 directions to remove national permitted development rights should:
 - a. where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre)
 - b. in other cases, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the use of

Article 4 directions to require planning permission for the demolition of local facilities)

- c. in all cases, be based on robust evidence, and apply to the smallest geographical area possible.”

(Our emphasis.)

NPPF and Planning Practice Guidance (PPG)

In its Glossary, the NPPF defines a Heritage asset as being:

“A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).”

In the PPG, non-designated heritage assets are defined as being:

“locally-identified buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions but which do not meet the criteria for designated heritage assets.”

In Local Heritage Listing: Identifying and Conserving Local Heritage Advice Note 7, Historic England sets out

“By providing clear and up-to-date information, backed by the policy in the National Planning Policy Framework, a local heritage list which has been made available on the website of the local planning authority (LPA) and via the Historic Environment Record provides clarity on the location of non-designated heritage assets and what it is about them that is significant. Decisions are best made on the basis of published criteria, publicly available, so that clarity and certainty on their location and significance is available for communities, developers and decision-makers, therefore ensuring that they are given due consideration when change is proposed.”

Neither of the buildings comprising the Property is listed, and neither is recorded by the Council in a local list or by the local Historic Environment Record.

WBA4D

The question has to be asked: does the significance of the Property (as well as the building at 2A Patrick Road) merit permitted development rights being curbed? In short, no. In the NPPF, as highlighted above, A4Ds are deployed where is necessary to protect local amenity or the well-being of the area. However, it is clear from the Officer’s report in relation to the WBA4D that the ultimate decision maker at the Council had not had Paragraph 54 brought to their attention, given the signal failure to even mention it. It is clear from our clients’ heritage assessment and from the Council’s Conservation Officer’s assessment that the continued existence of the Property is not necessary to protect either the local amenity or the well-being of the area. The Property has been altered so extensively, internally and externally, that it is devoid of much value, historic and aesthetic. Indeed, the Council has not published the Property in a local list or on the local Historic Environment Record, begging the question of how much value it places on the Property. Perhaps it is the lack of robust evidence that precludes the Council from doing so: to use as a defence against the demolition of a property the fact it is located in an area which is “sylvan” and “quiet” when the Property fronts a five-lane road is fatuous.

Concerning our client's application for prior approval for the demolition of the Property, it is worth noting that a large number of objections raised the issue of our client trying to get permission "through the back door" for the development the subject of the Planning Application. However, such comments detract from the purpose of the prior approval application, namely to seek approval for the demolition of the Property. It would, of course, be odd to suggest that seeking prior approval for the demolition of a building would not lead to an application, at some point, being made for some form of development. However, the Council needs to understand that the prior approval application at hand was for the demolition of the Property not for any subsequent development. Each permission/prior approval is sovereign and to allow the refusal of the Planning Permission to cloud the Council's judgment in relation the determination of the Prior Approval (as it has the objectors), would be an egregious dereliction of its duty to determine matters on their own merits.

In the words of Lord Hewart in *Rex v. Sussex Justices*, [1924] 1 KB 256: "*It is not merely of some importance but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done*". There is a real danger that the Council has made the WBA4D simply to ensure that the Property is left to gradually self-ruin rather than, potentially, generate housing needed for Rushcliffe. There are already modern buildings within the close vicinity of the Property; it fronts a five-lane road; the Property is wholly unremarkable in heritage terms; it does not appear on the local heritage list nor the local Historic Environment Record; the evidence for the making of the WBA4D is not "robust"; housing (in one form or another) is needed. A kneejerk reaction to a developer proposing to make something better which the Council and its constituents don't like could be seen as a misuse of the purpose of A4Ds. We are sure the Council would agree that the timing of the making of the WBA4D on 20 May 2025 and the refusal of the application for prior approval on 23 May 2025 appears to be odd and serendipitous for the Council.

Whilst we appreciate there are always going to be objections to anything so emotive as planning, it is a strange stance of the Council to use such a sledgehammer (in the form of the WBA4D) to crack a nut (the demolition of two unremarkable and extensively altered properties fronting a main road). Further, it is hard to believe that the Council is desperately keen to keep the Property as it is given that the WBA4D requires, solely, planning permission to be applied for and granted in relation to the demolition of the Property. No other permitted development rights come within the ambit of the WBA4D meaning it can avail itself of plenty of other rights which may alter its status as a shining beacon of mediocrity.

The raison d'être for the making of the WBA4D appears to be in order to oppose any redevelopment of the Property which, to our minds, fails the protection of local amenity and well being tests. There is also scant evidence for the requirement to have the Property protected, failing the test in paragraph 54 c of the NPPF (which requires **robust evidence**). Indeed, the Officer's Report on this matter, makes not a single mention of Paragraph 54 of the NPPF which is strange given that this is the paragraph that deals, specifically, with A4Ds and we are, therefore, concerned whether the ultimate decision maker in the Council, responsible for signing the WBA4D had been properly informed in relation to the requirements of paragraph 54 of the NPPF.

We would request the Council to revoke the WBA4D.

Yours faithfully

