



Oadby and Wigston Borough Council

TO COUNCILLOR:

L A Bentley (Chair)
G A Boulter
F S Broadley
Mrs L M Broadley (Vice-
Chairman)
D M Carter

R F Eaton
D A Gamble
Mrs S Z Haq
J Kaufman
Mrs H E Loydall

R E R Morris
T Barr
B Dave
T Khong
G S Atwal

Dear Sir/Madam,

I hereby summon you to attend a meeting of the **DEVELOPMENT CONTROL COMMITTEE** to be held in the Council Offices, Station Road, Wigston on **THURSDAY, 27 AUGUST 2015 at 7.00 pm** for the transaction of the business set out in the Agenda below.

Yours faithfully

Council Offices
Wigston
19 August 2015

Chief Executive

AGENDA

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| 1. | Apologies for absence | |
| 2. | Declarations of Substitutions for Committee Members | |
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MINUTES OF AN EXTRAORDINARY MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT THE COUNCIL OFFICES, WIGSTON ON TUESDAY 16 JUNE 2015, COMMENCING AT 6.00 P.M.

<p><u>IN ATTENDANCE:</u></p> <p>Chairman – L Bentley Vice Chairman – D Gamble</p> <p>Councillors: G S Atwal; G A Boulter; B Dave; R Eaton; J Kaufman; T K Khong; Mrs H E Loydall; R E R Morris; Mrs S B Morris</p> <p>Officers in attendance: Ms A Court, C Forrett, Miss G Ghuman</p> <p>Others in attendance: Mr Dan Hicks</p>

Min Ref.	Narrative	Officer Resp.
9.	<p>APOLOGIES FOR ABSENCE</p> <p>The Chair stated that the meeting was not called by him, but by the Monitoring Officer who confirmed that this was the case.</p> <p>Apologies receive from Councillors Mrs L Broadley, F Broadley, E Barr and Mrs S Haq.</p>	
10.	<p>DECLARATIONS OF SUBSTITUTIONS FOR COMMITTEE MEMBERS</p> <p>It was declared that Councillor Mrs S Morris was substituting for Councillor Mrs S Haq.</p> <p>D Gamble proposed by Mrs H Loydall, and seconded by Mrs S Morris, to substitute as Vice Chairman for the duration of this meeting alone in the absence of Mrs L Broadley.</p> <p>RESOLVED THAT:</p> <p>1. Councillor D Gamble substitutes as Vice Chairman for this duration of this meeting.</p>	
11.	<p>DECLARATION OF INTERESTS</p> <p>Councillor G Boulter declared he was an Associate Governor of Guxlaxton College.</p> <p>Councillor Mrs S Morris declared she was a Director of the Multi-Academy Trust incorporating Guxlaxton College. The Member stated that she was not involved in the applications' consultation process and confirmed she was attending with an open mind.</p> <p>The Monitoring Officer advised that Councillor Mrs S Morris may</p>	

	remain at the meeting.	
12.	<p>REPORT OF THE PLANNING CONTROL MANAGER</p> <p>1. WIGSTON SWIMMING POOL - APPLICATION 15/00098/VAC 2. GUXLAXTON COLLEGE – APPLICATION 15/00139/FUL</p> <p>The Planning Control Manager summarised the contents of the report for agenda item 4 (pages 2 - 17) and the agenda update (page 1) which was circulated at the meeting. These should be read together with these minutes as a composite document.</p> <p>Mr Hicks acknowledged the issues raised at the last meeting in terms of the changes submitted since the tender. He summarised that the issues were identified as: to make the most efficient use of space; improvement(s) to design in respect of the inclusion of a sauna facility; to keep within budgetary constraints subsequent to an increase in material costs in the preceding 18 months; and the technical design in respect of the underground results which were not carried out until the results of the survey were known.</p> <p>Mr Hicks submitted that the cut and fill exercise was necessary to raise ground levels. He acknowledged there was a 935mm increase in the building height from the original application; notwithstanding this, he noted the original building demolished was 1845mm higher. Mr Hicks stated that the trees located on-site would be re-located and, or, replaced where necessary and that the trees affected were either of a poor positioning or quality. It was stated there was a good relationship with the Technical Manager at Guxlaxton College who has been supportive of the amendments.</p> <p>Mr Hicks submitted that the buff-brick was the preferred design conception for which obtaining colour palettes were developed and noted that the old demolished building was of a similar buff-brick colour. It was stated that the roofing materials would weather over-time, dulling in its appearance, and that there would be little visual impact due to restricted sight. It was confirmed that the top-front and side-elevations has not changed in terms of the proposed metal-cladding.</p> <p>Mr Hicks cited that investigations into the acoustics impact proved more than satisfactory and the data sheets had highlighted a normal passage of sound, and that a direct comparison of cladding <i>vis-a-vis</i> brickwork was not possible due to qualitative differences in measurements. He further advised that any potential acoustic concerns were to be addressed by soft-landscaping and that any noise generated would be comparatively insignificant to that ordinarily generated by the traffic on the surrounding highways and the neighbouring railway line. It was reported that past-use of the said panelling materials presented no acoustic issues.</p> <p>Mr Hicks stated that the site entrance would be made good with grass-seed laid. An upgrade to the tarmac would be implemented to ensure complaint heavy-goods vehicle access, to which professional</p>	

<p>teams had applied their technical expertise and experience.</p> <p>Mr Hicks confirmed that all other conditions had been met.</p> <p>The Chair made reference to the availability of the proposed materials, alongside visual representations, for inspection by Members during the Planning Control Manager's report.</p> <p>The Planning Control Manager stated that the agenda item was deferred from the previous meeting for want of further information. It was confirmed that the acoustic concerns had been addressed by Mr Hicks and that, although he was not in receipt of any information on the same, to his knowledge there was no reason to dispute the details reported. The key issues before Members were summarised as minor material amendments to all four elevations, namely in respect of: the side-elevation facing the railway line, the use of metal-cladding in lieu of brickwork; the side-elevation facing Guxlaxton College, of the same above in entire metal-cladding (as per the samples) with an insignificant change to window fenestration levels; the front-elevation facing Station Road, of the same brickwork and timber-cladding with a grey-in-colour rendering finish (as per the samples) with the colour to be agreed.</p> <p>He advised that the differences in building height were acceptable and within the parameters of planning merits.</p> <p>It was reported that there was a firm view of a red-brick character area and that the development ought to reflect this and so to accentuate design features, as included in the recommendation. The heavy-goods vehicle materials were approved as suitable for access purposes, addressing its initially problematic light-weight construction. The car parking space were given as a block-paved system, comprising of plastic and loose gravel with a recommendation of a grass-turfed substitute exterior to provide a sustainable drainage solution. A drainage scheme had been submitted and a consultation was to be held.</p> <p>In respect of the second off-site application, the Planning Control Manager re-affirmed that the trees affected would be replaced and, or, replanted as necessary as an expectation to complete off-site works and noted previous references made by Members about the trees' poor quality, positioning and angle.</p> <p>The Chair reiterated that the agenda item before Members was a minor amendment to materials within the acceptable remit of planning terms and not a planning issue <i>per se</i>.</p> <p>A Member enquired as to whether the metal-cladding was of a special finish to prevent vandalism. The Planning Control Manager advised that it was a standard metal-cladding product similarly used on retail parks.</p> <p>A Member questioned the lack of availability of common red-brick versus buff-brick.</p>	
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A Member stated that a number of concerns had been allayed having inspected the illustrations for a second-time. It was reiterated that the trees affected were not significant and ought to be removed due to their 45 degree angling and welcomed the advantages of a replanting scheme to better provide for tree positioning and longevity.

The Member opined that the buff-brick exterior presented as a better-blend in relation to remainder of the building although had no objection to the recommendation. The Member requested more information regarding the effectiveness of the acoustic barrier provided by the metal-cladding and whether the use of such a material would be equally suitable for a swimming pool and the noises generated therein.

The Planning Control Manager stated that he was not in receipt of any further information, in addition to that presented by Mr Hicks, in terms of the acoustics investigations. He noted that from anecdotal-experience, no such aforesaid difference was evident. The Monitoring Officer confirmed the contents of the investigative report, citing it acoustically met the sought-after recommendations in terms of sound transfer and that a direct comparison could not be made. It was noted that brickwork or metal-cladding were equal in sufficiency.

A Member sought reassurance that any financial burden arising from any necessary remedial action to counter potential acoustic implications in the future would not be borne by the Council whilst acknowledging the appropriate remit of the same request. The Monitoring Officer advised that any such financial burden would be inherited by the contractor.

A Member enquired as to whether there was suitable boundary treatment through the planting of trees to visibly obscure the metal-cladding facade from the view of Guxlaxton College. The Planning Control Manager advised Members that no such treatment alongside the site boundary was permissible with reference to the site plan. The Member expressed that an agreement ought to be negotiated with the neighbouring college and a note be served on the applicant.

The Member raised a concern as to the availability of the information to Members contained in the acoustic report. Reassurances were sought from the contractor in respect to if the materials proposed for use were suitable for a residential-area and notably the need for appropriate insulation to mitigate any potential drumming-effects emanating from the metal roof.

The Chair enquired as to whether a condition was suitable to address the aforementioned matter.

The Planning Control Manager advised that a condition may be imposed stating that any noise originating from the building should not exceed the site boundary. It was further advised that a pre-

coloured, power-coated matt finish to materials proposed for use should be considered to remain in-keeping with the residential area and that the oxidising effects in respect of the roof will minimise long-term visual impact.

The Member stated that the brick colour was a subjective subject-matter and would prompt greater contention if the proportion of brickwork grossly exceeded that of windowed exterior. As this was not the case, the Member did not express a preference as to the colour of the brickwork yet acknowledged that it was an immediate red-brick area. A concern was raised with the Chair as to the colour of the mortar to be used in terms of its appropriate shading.

The Chair instructed Officers to make further enquires be made into the colour of the mortar. The Planning Control Manager advised Members that if they considered the colour of the mortar to be an important issue, then a condition may be imposed accordingly as a planning issue.

A Member enquired as to whether any special finish could be applied to the metal-cladding to pro-actively pre-empt any attempt at vandalism (i.e. graffiti) or whether this potential issue could be re-actively managed by on-site means of security and CCTV. The Planning Control Manager advised Members that any surface was susceptible to vandalism and that the concern was more appropriately addressed as a management issue, whilst acknowledging the advantage of taking a pro-active approach.

A Member enquired as to whether the metal roof would present any fire hazards due to light being reflected. The Planning Control Manager advised Members that if a power-coated matt finish was to be used, it would not be predisposed to any such risk in terms light reflection nor adverse visual impact.

The Chair recommended that the issues pertaining to the colour of the mortar and roofing materials to be used should be delegated to Officers to determine a suitable solution.

A Member enquired as to the conditions attached to the choice of finishing colours. The Planning Control Manager advised Members that if there was a preference as to colour, that Members can be further advised on the same.

The agenda items were respectively moved and seconded for approval in respect of the minor amendments to materials proposed for use, subject to conditions that: the proper assurances be given in terms of satisfactory acoustic levels at the site boundary; a note be served on the applicant to liaise with Guxlaxton College regarding any potential boundary treatment; and the colour of the mortar, roofing materials and exact finish to be used be delegated to the Officers to determine a suitable solution.

RESOLVED THAT:

	<p>The application in respect of Wigston Swimming Pool (Application 15/00098/VAC) be permitted subject to conditions.</p> <p>RESOLVED THAT:</p> <p>The application in respect of Guxlaxton College (Application 15/00139/FUL) be permitted subject to conditions by ten votes in favour and one abstention from Councillor Mrs S Morris.</p>	
<p>13.</p>	<p>TREE PRESERVATION ORDER TPO/0307 – LAND AT THE REAR OF PROPERTIES 11-37 MARSTOWN AVENUE, WIGSTON</p> <p>RESOLVED THAT:</p> <p>The agenda item be deferred until the ordinary meeting of the Committee in June 2015 by unanimous agreement.</p>	

The Meeting Closed at 6.50pm

**MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD
AT THE COUNCIL OFFICES, WIGSTON ON THURSDAY 25 JUNE 2015
COMMENCING AT 07:00 PM**

<p><u>IN ATTENDANCE:</u> Chair - L A Bentley Vice Chair- Mrs L M Broadley Councillors: G S Atwal; G A Boulter; D M Carter; B Dave; D A Gamble; J Kaufman; Dr T Khong; Mrs H E Loydall; and R E R Morris Officers in attendance: Mrs A Court; C Forrett; Miss G Ghuman; and S Ball Others in attendance: Mrs S B Morris and L Wiggins</p>
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Min Ref.	Narrative	Officer Resp.
14.	<p>APOLOGIES FOR ABSENCE</p> <p>Apologies received from Councillors E Barr, F S Broadley, Mrs S Z Haq and R F Eaton.</p>	
15.	<p>DECLARATIONS OF SUBSTITUTIONS FOR COMMITTEE MEMBERS</p> <p>None.</p>	
16.	<p>DECLARATION OF INTERESTS</p> <p>Councillor Mrs H E Loydall declared that application 4/00538/FUL and the references made in the report to the Police, that her son is employed by the Police Constabulary in the Loughborough area.</p>	
17.	<p>PETITIONS AND DEPUTATIONS</p> <p>None.</p>	
18.	<p>MINUTES OF PREVIOUS MEETING HELD ON 28 MAY 2015</p> <p>RESOLVED: That the minutes of the previous Committee meeting held on Thursday 28 May 2015 be taken as read, confirmed and signed.</p>	
19.	<p>TREE PRESERVATION ORDER TPO/0307 - MARSTOWN AVENUE</p> <p>The Committee gave consideration to Agenda item 6 at pages 10-12. These should be read together with these minutes as a composite document.</p> <p>Mrs S B Morris spoke on behalf of residents as their request to speak in person had been denied. It was stated that residents had chosen to move to south-side properties on Marstown Avenue due to the rear-view of the land in respect of the trees and wildlife within. The trees</p>	

were reported to provide an effective sound-barrier to the noise generated from the railway line and screening from the properties adjacent. The Forestry Commission was cited in that the removal of trees may cause subsidence from the movement of trains. The high-water table upon which the properties were sited was said to be at risk due to the stability provided by the trees in the clay grounding. The Forestry Commission attended the site to inspect on three occasions and concluded the site was worthy of protection, recommending tree management as opposed to felling. They warned that the removal of trees may affect the railway embankment and the structural integrity of the properties. She claimed that the residents' insurers had advised a claim would be instigated against the Council to remedy any damage caused insofar as not retaining the trees and confirming the TPO, as a recent local precedent dictated. The resident's thanked Members for their consideration. Mrs Morris summarised that the site provided a public amenity to residents either side on both Marstown Avenue and Kirkdale Road and invited Members to confirm the TPO for the reasons aforementioned.

A Member enquired as to why the residents were not permitted to speak in person at the meeting. The Chair advised that such a granting of permission was contrary to the Standing Orders in respect of consideration of TPO's.

A Member sought a point of clarification from the speaker as to the precedent cited in her report. It was confirmed that the precedent referred to was an historic claim against the Council for subsidence in the said area of land.

The Chair advised Members that the issue before them was whether to confirm or otherwise the TPO and not the process or reasons for delays for which the report was put before Members for their due consideration.

The Planning Control Manager summarised the contents of the report for agenda item 6 (pages 10-12). He directed Members attention to a site visit that took place some six weeks ago. The site was described as a now unkempt, former builders' yard. The TPO was originally made during the Christmas period at which time work was being undertaken. He referred Members to the report, citing that representations had been received for and against the confirming of the TPO (at page 11). The Council's arboriculturist had attended the site and had not recommended the making of a TPO due to the tree's poor quality or low public amenity value (at page 12). The oak tree positioned to the east of the site had since been removed due to its adverse structural impact on the courtyard of garages positioned nearby: this tree alone was considered sufficient to warrant a TPO prior to its removal.

The Planning Control Manager advised Members that the points raised by the speaker (viz. water-table level, acoustic-barrier and screening) were not before Members' consideration and/or sufficient justification to override the recommendation of the report not to confirm the TPO. He confirmed that the line of sight from the railway bridge to the site was approximately 70-80 metres and obscured by a secondary line of trees

positioned by Network Rail along the embankment, rendering the trees barely visible. The poplar trees that were visible close to the boundary with Network Rail had been pollarded and the recommendation was to re-pollard if further works were to be undertaken. The area of land in question was reported to provide little public amenity value to justify the continued protection of the trees thereon.

A Member agreed that the trees onsite required an extensive amount of work. He raised a concern regarding the transpiring of work required to a felling of a total of 12 trees on the site as of the 29 December 2014 resulting in the provisional making of the TPO. The felling has been carried out by means of services rendered by a tree surgeon (applied loosely) employed by the land's proprietor to undertake work. It was stated that the Planning Control and Enforcement Officer attended the site on behalf of the Council on four occasions since the initial making of the Order in response to reports of chainsaws being taken to the land. The Forestry Commission was cited to have issued a 'no felling' direction, in place until September 2015, during which time the oak tree was nevertheless felled. The Member made reference to an unverified case imminently before the courts taken by the Forestry Commission against a land owner in similar circumstances. For the aforesaid reasons, the Member opined that there was an imminent danger and therefore a ground for the TPO to be confirmed.

The Member further stated that Natural Britain had attended the site and confirmed the presence of bats and slow-worms, the later being protected under the Wildlife & Countryside Act 1981 as a 'priority species'. The removal of trees was therefore reported to potentially stifle the biodiversity of the land and engager wildlife. In respect of public amenity value, it was stated that the site was visible irrespective of distance and cited a notable decision of other authority which, in confirming a TPO, found public amenity value in the case of a single resident's line of sight from a rear-garden area. It was further opined that the sound-barrier provided by the trees in question did harbour some of the noise generated and that its utility in this regard was yet to be proved by the Planning Control Manager. He noted that if the TPO was confirmed, the likelihood of the proprietor of the land appealing to the High Court was minimal due to the financial implications accrued to him. The Member submitted there was sufficient justification to confirm the TPO for the aforementioned reasons and moved the proposal for the same.

A Member stated that the site was an important wildlife corridor, one of only a few in the Borough leading-off the railway embankment, and a forging area and habitat for known bats and slow-worms. He stated that if the TPO were to be confirmed, it would not prevent the necessary work to be undertaken in the future (subject to an application) and would preserve the sound-barrier provided. However, to not confirm the TPO would be the incorrect decision, adding that a number of trees onsite were particularly attractive specimens and different to those found elsewhere in the Borough. The Member approached the question on the balance of probability insofar as the likelihood of the proprietor felling the remaining trees onsite if the TPO were not to be confirmed, citing past experience as an indicator of near certainty of the same. The

fact that the trees in question could be seen from 11 south-side properties on Marstown Avenue should be given sufficient weight in favour of the argument to confirm the TPO. The secondary line of trees alongside the railway embankment were said to be subject to the discretion of Network Rail who, in the Winter past, had removed similar trees from the site at the old station on Station Road. He summarised the reasons aforementioned and stated that on the balance of probability, it would be wise to confirm the TPO and to invite the applicant back to undertake the necessary work. The Member seconded the proposal for the TPO to be confirmed.

The Chair stated that he appreciated the views of Members and so to provide greater balance, noted that the site was mostly scrubland littered with waste (e.g. bricks, pallets etc.) which required clearing due to a risk of contamination impacting on the biodiversity. He stated that if the applicant did exercise his right to appeal, a cost implication would too be borne by the Council and so warned Members on the prudent-use of public funds in such matters.

A Member sought clarification as to the definition of a tree and the numbers of trees seeking preservation in the context of an Order made covering all trees located in the area defined on the plan provided (at page 10). He stated that much of the biodiversity onsite may be supported by scrub and other forms of non-tree vegetation present.

The Planning Control Manager advised Members that a detailed survey of the site had not been undertaken so the exact number of trees under the Order was not known. He stated that, according to the regulations, the definition of a tree and the size of the area covered by an Order was determined by a prescribed height and girth of the tree(s) for the purposes of a TPO.

The Member sought comment from the Officers in respect of the Council's possible legal responsibility in view of both opposing parties' contentions that a liability to the Council may potentially arise either way (i.e. clay-soil issues due water retraction, unmanageable damp areas due to light blockage, and potential hazards to the railway at page 11), described as a "no win" situation.

The Planning Control Manager advised Members that no liability would arise against the Council. The proprietor of the land would assume responsibility in the event of any subsistence and/or ground-shrinkage should the TPO not be confirmed and trees subsequently removed. An issue of liability in respect of the felled oak tree was now said to be non-existent insofar as, in preventing the proprietor from felling the tree, the Council would have been liable for its adverse structural impact on the courtyard of garages positioned nearby (as confirmed by a Court Order). This is what formed part of the representations received from concerned residents on Marstown Avenue.

The Monitoring Officer confirmed the Planning Control Manager's advice.

Councillor G S Atwal vacated the Council Chamber at 07:32 PM.

A Member sought a more definitive statement from the Officers as to the exact extent of the Council's legal responsibility insofar as if the TPO was to be confirmed, whether the Council would be liable or not if a tree subsequently fell and injured an individual and/or caused an obstruction on the railway line.

The Planning Control Manager advised Members that the point entertained two aspects: (i) the making of the Order; and (ii) the dealing with applications to undertake work to a TPO tree. In respect of the former, it was advised that ordinarily the Council was not exposed to such a risk, save for if a TPO was confirmed in the knowledge that the trees were structurally poor or weak. In respect of the latter, it was advised that the reverse was true and the applicant could seek costs from the Council. It was stated that this contingency was not the case nor before Members for their consideration.

A Member stated he agreed with the representation made by the Council's volunteer Tree Warden in that confirming the TPO would be consistent with the 'Greening the Borough' policy (at page 12) in aspiring to promote the healthy development of trees *vis-a-vis* the retention of all trees. It was said that by not confirming the TPO do Members seek to prevent the proprietor from maintaining the trees in question to ensure their long-term health. The Member reiterated the notion of a decision based on the balance of probabilities and stated his inclination in favour of confirming the TPO.

A Member re-echoed the Council's arboriculturist comments regarding the tree's poor quality and the removal of dead wood (at page 12), the Council was said to be at risk if it were to confirm the TPO. The Member stated that had the oak tree remained, she would have had no hesitation in supporting the confirmation of the TPO. She directed Members to focus on what trees remained, describing the remainder as insignificant in terms of their ill-health and limited lifespan.

The Chair advised that no such opportunity could be afforded as the confirmation or otherwise of the TPO was a matter that required a final determination at this meeting.

In responding to Members' earlier questions. The Planning Control Manager reported that on the occasions where the Planning and Enforcement Officer had attended the site, the works being undertaken at the time were the cutting of lodges/branches already felled and the felling of the oak tree itself. In respect of the Forestry Commission, the legislation in question was not over-riding but a separate issue which ought not to feature in Members' considerations. In respect of protected species, the confirmation of the Order or otherwise would not engender any rights or implications under the Wildlife & Countryside Act 1981. He directed Members' to consider the quality of the public amenity value provided by the trees as a determining factor, with reference made to the arboriculturist's and Members' earlier comments as to the poor quality of particular trees cited. The trees were said to have some noise-deadening properties however, due to the numerous breaks in the tree line, this was neither absolute nor material to the decision-

	<p>making process. According to planning guidance, it was not recommended that a TPO be confirmed as a means to manage any work undertaken acknowledged by all as necessary.</p> <p>The Chair moved for the recommendation for TPO not to be confirmed, stating that to otherwise confirm in this instance was not the correct decision so to ensure the expediency of tree management onsite and to afford the landowner the opportunity to honour the assurances given to the same.</p> <p>A Member seconded the proposal for the recommendation to be approved.</p> <p>DEFEATED THAT:</p> <p>The amendment to the recommendation that the Tree Preservation Order (TPO) made on the 30 December 2014 be confirmed by four votes in favour, and six votes against.</p> <p>RESOLVED THAT:</p> <p>The recommendation that the Tree Preservation Order (TPO) made on the 30 December 2014 is not confirmed by six votes in favour, and three votes against.</p>	
19.	<p>TREE PRESERVATION ORDER TPO/0308 - 3 GLEBE CLOSE</p> <p>The Committee gave consideration to Agenda item 7 at pages 13-14. These should be read together with these minutes as a composite document.</p> <p>The Planning Control Manager summarised the contents of the report for agenda item 7 (pages 13-14). He reported that two s. 211 Tree Notifications were received for the felling of multiple trees onsite to which the arboriculturist's advice was sought. A provisional Tree Protection Order (TPO) was made for reasons of public amenity value. The arboriculturist was not able to gain entry to the site since to complete a more detailed inspection of the trees. The recommendation was to confirm the TPO as provisionally made given the timescales involved. There had been no change in circumstances.</p> <p>A Member enquired as to why access to the site in question was not possible and/or granted.</p> <p>The Planning Control Manager advised Members that dealings had been ongoing with the proprietor's agent and that, despite several attempts to request access to the site, no permission was forthcoming.</p> <p>RESOLVED THAT:</p> <p>The recommendation that the Tree Preservation Order (TPO) made on the 28 January 2015 be confirmed.</p>	
20.	<p>REPORT OF THE PLANNING CONTROL MANAGER</p>	

The Committee gave consideration to Agenda item 6 at pages 15-32. These should be read together with these minutes as a composite document.

1. 14/00538/FUL - Wigston House, 183 Kirkdale Road, Wigston, Leicestershire, LE18 4SU

The applicant's agent, Mr L Wiggins, spoke on behalf of Wesley House Partnership. He spoke of the applicant's delight in the application securing recommendation for approval, stating the proposal sought to provide a well-designed housing scheme that was both attractive and in-keeping with the conservation area. It proposed redevelopment on a brownfield site for housing in a predominately residential area recognised, in principle, to fulfil the regeneration master plan for the area in accordance with policy three of the adopted core-strategy. It was acknowledged that the proposal if brought-forward formed a significant part of the Council's wider regeneration scheme objective which the applicant fully supported. The proposal was said to not preclude the development of the bus depot nor the land off Bennett Way, with provisional access to the latter being facilitated. The noise generated by the depot was noted as an issue for adjoining plots and that concerns regarding the appearance of a high-acoustic fence should be allayed due to it being out-of-sight from the road and the potential for the fence's height to be reduced once the noise-source was removed. The scheme was said to adopt the design-principle of providing strong frontages on the back-edge of the footpath, with staggered groups of dwellings further into the site away from the traditional terraced street-pattern. All of the dwellings were said to be provided with two, off-street vehicle-parking spaces, with the exception of the smaller apartments with a 125% division to cater for residents and businesses. All houses are to include private rear gardens of an appropriate size, with the occupiers of the apartments sharing a communal garden area.

He noted the concerns raised during the determination of the application and stated that they had now been resolved as confirmed in the report. The four dwellings proposed on plots 10 to 13 to the north of Kirkdale Avenue was said to have a minimal impact to the level of light enjoyed by those occupiers. The closest dwellings to the east were to be positioned to the gable-end of the rear-elevation/s to ensure no over-looking and the minimum amount of disturbance from noise and lighting. It was reported that there would be no discernible impact from the noise generated from passing traffic once onsite. The amount of traffic and its impact on the highway network had been assessed by the applicant's partner and praised by the Highways Authority with no objections raised. The applicant was said to be aware of the presence of Japanese knotweed on the western-side of the site and gave assurances that the necessary steps would be taken to eradicate it. It was reported that the applicant had a proven track-record in delivering affordable housing locally and that it was their desire for the 56 proposed dwellings to accommodate local families in housing need as soon as practicably possible. It was anticipated that work would commence onsite immediately once the pre-commencement conditions

were discharged and the applicant was keen to avoid any delays due to the limited window of opportunity in terms of the scheme's funding.

The Planning Control Manager summarised the contents of the report for agenda item 8 (pages 16 - 32). The proposal was a scheme of 56 dwellings incorporating a number of design features from the conservation area to remain in-keeping with the same. A number of visual elevations were presented to Members to demonstrate the design's consistency with Kirkdale Road. It was said that a number of amendments had been made in consultation with Conservation Officers, most notably in respect of the dwellings' canopies. The amended siting of properties on a hip to the rear of Kirkdale Road was a helpful amendment in terms of planning to alleviate the impact on visual neighbouring residential properties. The design did not reflect the parking arrangements of a traditional housing estate resulting in a number of parking-court areas, designed and sited to prevent overlooking. It was noted that a balance was recognised between the need for adequate parking in modern-day terrace properties and retaining the area's character. In respect of the acoustic-fencing, the proposal was to install the fence along the identified boundary to ensure the acoustic levels were acceptable to prospective residents' living standards: although noted as not an ideal solution, the fencing would not be seen in the public domain. The concept was said to evolve in terms of later planning and noise mitigation.

The Planning Control Manager informally updated Members as to the comments received back from consultations since the drafting of the report. County Highways was said to have reiterated the overall theme of the conditions outlined. A s 106 agreement contribution was also to be sought in respect of the real-time provision of travel/tracking-information in relation to bus-stops which were forming part of the negotiations to ensure compliance with the civil regulations. It was noted that discussions had not been forthcoming with the Police regarding the report's reference to their respective contribution. Members were invited to delegate to Officers the authority to progress and negotiate the above under the appropriate delegated powers. The Police were reported to have objected to the application as it did not provide for their required mitigation on policing impacts to which the Planning Control Manager did not agree for reasons outlined in the report. The figures in the report regarding the CCTV have been deemed unsuitable by the Police for reasons of insufficient funding. However, according to the Community Infrastructure Levy Regulations, it was noted that the developer should not contribute more than was necessary in planning terms: the Police's suggestion was said to go above and beyond the need arising from the development and a recommendation was put to Members to agree to the original contribution in the report.

The Chair advised Members to consider the matters before them, to the exclusion of an earlier reference made to prospective access to Bennett Way.

A Member stated that it was unacceptable for Highways to submit a late letter and expected future compliance within the prescribed

timescales. He approved of the application, describing it as well-designed and affordable housing scheme on a brownfield site and commended the applicant's considerable efforts to remain in-keeping with the conservation area. The Member moved the proposal in favour of the recommendation.

The Planning Control Manager advised Members that there had been an ongoing dialogue with Highways and a number of responses had been received over a period of time during negotiations before a formal reply.

A Member was in favour of regenerating a brownfield site. He enquired as to whether the applicant experienced any difficulty in sourcing a suitable green as the trees onsite appeared more mature than those intended to be planted. He requested a landscaping plan be implemented involving Members and Tree Wardens. It was asked as to whether some sound-deadening provision could be additionally installed to protect prospective residents from noise generated from the Leicester-to-Birmingham railway line. The use of a suitable brick colour was also raised so to be in-keeping with the street-scene on Kirkdale Road. He enquired as to whether Leicestershire County Council would be taking ownership of the highways within the dwelling-complex.

The Chair confirmed that it was acceptable for Members to be involved in such a landscaping plan given their appropriate training. It was noted that the noise emanating from the railway line would have been minimised had the decision of central government gone ahead to electrify the trains/lines.

The Planning Control Manager made reference to the architect's plans, citing the three green circles as indicative of the landscaping scheme forming part of the recommendation. The railway line had been acknowledged in the report as a noise-source of concern and a package of window-glazing was to be installed to ensure acceptable living standards for prospective residents. The railway line was noted to be the Southern freight-line with only a few trains passing during the day-time only. He advised Members that the development required red-brick materials in terms of maintain a consistency with the character of Kirkdale Road, controlled by planning conditions. The main access highways were to be of an adoptable standard and adopted as such, with the exclusion of three identified roads best maintained through site management.

A Member agreed with the landscape planning. He enquired as to whether the adopted highways would have street-lighting and if the dwellings' design incorporated slate/slate-like roofing and chimneys to complement the surrounding street-scene. He opined that the proposal was of a poor and monotonous design, noting that every street in the area had its own design peculiarity. A major concern was raised regarding access arrangements from Kirkdale Road and Station Street, stating that rear-access from Bennett Way was more commonsensical: he expressed his unwillingness to endorse any development sited on the proposed juncture. It was said that the area ought to be developed

but in sympatric way and therefore, for the reasons also aforementioned, the Member felt unable to support the application.

The Planning Control Manager advised Members that in respect of chimneys, the proposal was a modern development in a conservation area that is predominately unseen. He stated that he could not disagree in principle with the Member's suggestion and was willing to negotiate with the applicant to explore the possibility of the front block of dwellings incorporating chimneys: there would be some reluctance to go beyond that as the statutory test had been met in terms of the area's character *vis-a-vis* improvement proposed.

The Chair stated that access via Bennett Way was not before Members.

The Planning Control Manager advised that there had been some historical discussions concerning traffic-flow and access. He confirmed that Kirkdale Road and Station Street was an existing highway access-point and a non-discretionary view of the same had been taken by Highways. It was advised that there was no theoretical difference in the traffic-flow at either access point and presented the same highway benefit. It was re-iterated that Bennett Way did not form part of the application which must be considered on its sole merits: however, it was added to reassure Members that access via Bennett Way was predominantly under the control of the Council and discussions had been held with the developers to explore this subject-matter.

The Chair stated the proposal would be consistent with the Member's earlier that every street in the area had its own design peculiarity insofar as the proposed development itself was of also of a comparatively distinct design. The Member disagreed with this statement for the reasons aforementioned.

The Member raised a concern as to the adequacy of vehicle-parking spaces provided for prospective apartment residents (i.e. 1.25 spaces per apartment) and sought clarification as how any overflow would be accommodated.

The Chair enquired as to whether this was a town-centre development.

The Planning Control Manager advised that, in terms of parking availability, the development was not considered to be a town-centre site but was in walking distance of the same so was a material consideration. The apartments were noted to be smaller than the one-bedroom units and, as such, of a commensurate vehicle-parking generation. The availability of parking spaces was considered appropriate given the site's location and access to nearby amenities and transport links.

The Member stated there was insufficient parking availability Kirkdale Road and Station Street which would worsen due to the intended highway access.

The Planning Control Manager advised Members that the Highway Agency had recommended that the highways in the site were to be

subject to a Traffic Regulation Order (i.e. double yellow lines) to ensure fluid access, adding it would have neither a positive nor negative effect of existing residential properties. It was said that the choice of roofing-materials formed part of the conditions and, whilst noting the Member's suggestion above, that an eclectic mix of materials had been used on existing terraced properties. Slate/slate-like roofing was considered to unnecessary. The choice of roofing-materials was said to be crucial, with the possible use of mock clay tiles suggested.

The Member suggested that brick-detailing be introduced to enhance the exterior appearance of the dwellings, with no cost incurred to the applicant.

The Planning Control Manger stated that discussions could be held with the applicant but did not consider this a proper ground to withhold permission, adding that brick-detailing was not a consistent feature in the street-scene.

A Member stated the proposed application had the potential to be a good development contingent on the quality of the workmanship, referencing the intended stone cills around the windows and the separation of brickwork on the first floor levels. A concern was raised as to unlit areas on the ends of the unadopted roads and the potential risks and vulnerabilities presented to members of the public. An analogy to the development at Two Steeples Square was cited where residents were said to be concerned about accessing the rear of their properties in unlit areas. It was also enquired as to who would be responsible for maintenance to the lighting on the unadopted roads.

The Planning Control Manager understood the concern raised and advised that a simple scheme of low-level lighting in the unlit areas could be approached through a condition. The unadopted areas would be maintained through a maintenance management company, inclusive of any lighting.

A Member said that the initial concerns the Member had in respect of the consultation process and overall design had been addressed, citing a final paragraph from the report (at page 21) insofar as the applicant had given due consideration to conversation. The Member enquired as to whether the recommendations of the Bat Survey had been brought to the applicant's attention in accordance with the report (at page 17).

The Planning Control Manager confirmed that the recommendations had been brought to the applicant's attention who had consulted on it. It was reiterated that there was a low potential for bat roosts and the applicant was aware of that response if terms of their protected species status.

The Chair seconded the proposal in favour of the recommendation and summarised the intended condition in respect of: landscaping; negotiations in terms of s 106 agreements, contributions, highways and chimneys; delegations to Officers; and lighting for unadopted roads/areas.

RESOLVED THAT:

Planning permission be granted subject to the aforementioned conditions, with ten votes in favour and one abstention from Councillor G A Boulter.

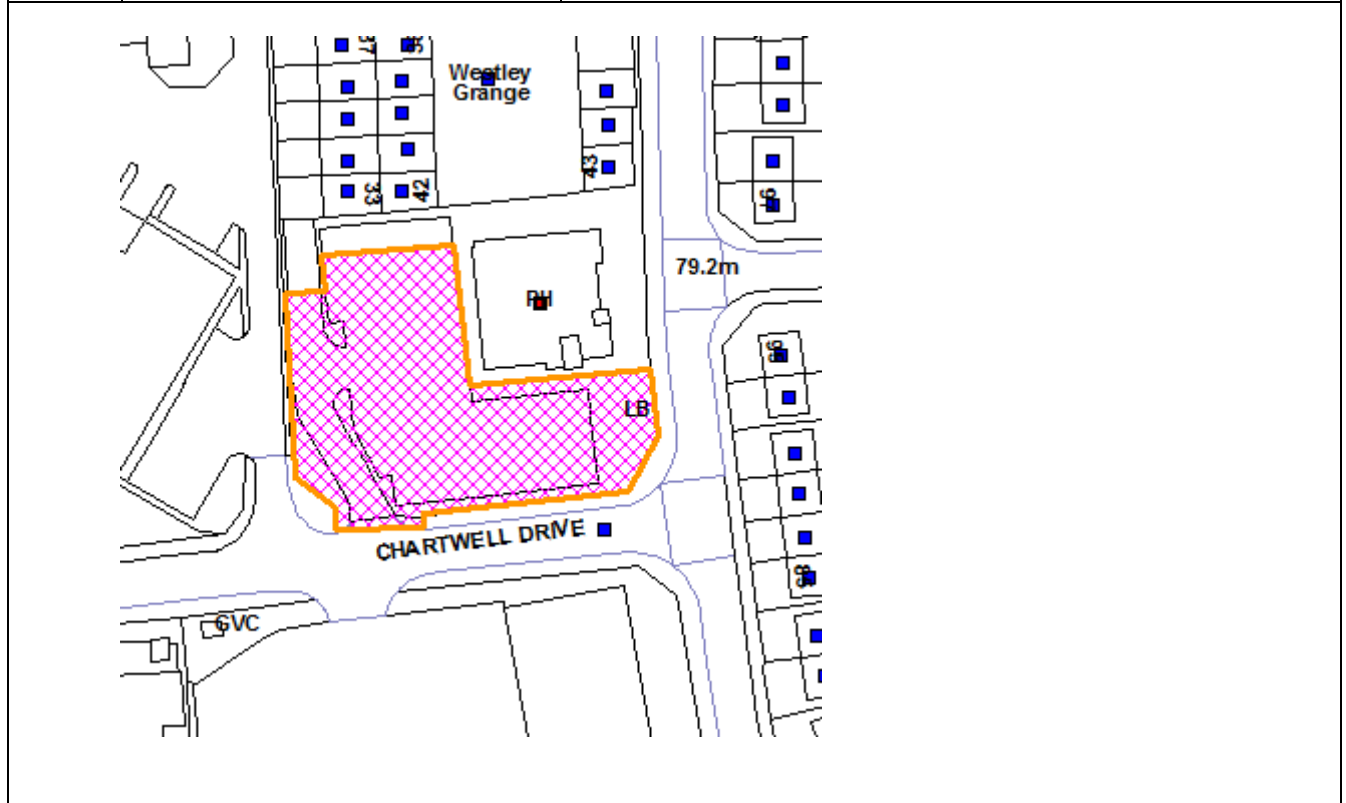
The Meeting Closed at 08:29 PM

Application Number	Address
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Report Items

- | | |
|-----------------|--|
| 1. 15/00261/FUL | Chartwell Arms
Chartwell Drive
Wigston
Leicestershire
LE18 2FB |
|-----------------|--|

1.	15/00261/FUL	Chartwell Arms Chartwell Drive Wigston Leicestershire LE18 2FB
	11 June 2015	Resubmission of 14/00498/FUL for the erection of a retail unit (use class A1) with associated ATM cash machine, car parking, servicing, refuse and plant area and landscaping.
	CASE OFFICER	Stephen Dukes



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Site and Location

The site is located in a prominent corner position at the junction of Chartwell Drive and West Avenue. The site is currently used for car parking for the Chartwell Arms Public House. The Chartwell Drive Industrial Estate borders the site to the north, south and west, however the site lies outside of the identified employment area in the Oadby & Wigston Local Plan. There are residential properties located opposite the site on West Avenue.

Description of proposal

The application proposes the erection of a retail unit (Use Class A1) with associated ATM cash machine, car parking, servicing, refuse and plant area, and landscaping.

The retail store would measure approximately 15m wide x 20.6m long x 6.7m high (max) with a retail floor area of 183.4 square metres and a back up area of 91 square metres. The walls would be brick and render, and the roof would be tiled. The proposal also includes a bin, plant and cage area to the rear of the store within an acoustic fenced area measuring approximately 6.8m long x 7m wide x 2.7m high.

The application proposes 13 car parking spaces (including 1 disabled) for the store with 16 car parking spaces (including 1 disabled) for the Chartwell Arms public house. Provision for cycle parking is also proposed within the site. The site is accessed from Chartwell Drive.

The application is similar to an application recently approved by this committee, during a meeting on 2 April 2015 (ref. 14/00498/FUL). The amendments from the previous application are outlined below:

- Re-location of the store to the originally intended position following comments from members at committee;
- Amendment of Condition 10 to allow the store to be open to customers seven days a week, including Bank Holidays between 07:00 and 23:00.
- Removal of Condition 16 to allow development to commence prior to the submission of a Traffic Regulation Order (TRO)

A Planning and Retail Statement, Transport Statement and Noise Impact Assessment have been submitted with the application.

The statutory determination period for this application expired on the 6 August 2015, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

14/00498/FUL - Erection of a retail unit (use class A1) with associated ATM cash machine, car parking, servicing, refuse & plant area & landscaping – Application permitted on 14 May 2015.

Consultations

Leicestershire County Council (Highways)

Concerns were raised in application 14/00498/FUL over potential car parking issues and whilst discussions were held over the provision of Traffic Regulation Orders (TRO) through a S106 agreement to manage potential on-street parking issues, it was concluded that such a contribution would not meet the CIL test. Accordingly, a condition (Condition 16) was imposed which required the submission of a TRO application and consultation to have commenced prior to commencement of development.

The Local Highway Authority (LHA) understands that as part of this re-application, the Applicant wishes to commence development without the TRO application being made, and to replace this condition with a Unilateral Undertaking. As there are lead-in times associated with the implementation of TROs, the LHA is of the opinion that the process should be commenced prior to development, so that reasonable endeavours to implement the TRO would have been undertaken prior to first use.

The LHA does not object, subject to the inclusion of conditions which are reflective of the previous advice made to OWBC and re-iterate the LHA's position as per the previous application. Attention is drawn to the condition which requires for the TRO to have been submitted and consultation to have been undertaken, and not for its implementation. Therefore, the Applicant's reasoning that the condition is in contravention of Section 21a(3) of the NPPG is not applicable.

OWBC Planning Policy

Core Strategy Policy 2 – Development in the Centres of Oadby, Wigston and South Wigston states that in considering proposals for new retail development, the Borough Council will apply the sequential approach to site selection and that it is essential that any development does not have an adverse effect on existing centres within the Borough.

Both the Core Strategy and the National Planning Policy Framework recognise the importance of town centres by concentrating town centre uses (for example retail) within town centre boundaries. Bearing this in mind, the Council's Town Centres Area Action Plan condenses Wigston's town centre boundary to further concentrate town centre uses within the core of the town.

Any proposed retail development situated outside of Wigston town centre will need to satisfy the sequential test; in the process justifying why none of the current available units or retail provision set out within the Town Centres Area Action Plan are not appropriate. The National Planning Policy Framework suggests that 'where an application fails to satisfy the sequential test or is likely to have significant adverse impact...it should be refused'.

Core Strategy Policy 2 also states that the Borough Council where necessary identify new small scale local shopping opportunities to meet the everyday needs of local people".

OWBC Environmental Health

Comments made with regards to contaminated land, groundwork and construction.

Representations

Neighbours have been informed and a press/site notice placed with no letters of representation being received at the time of writing this report. The date for the receipt of comments expired on the 27 July 2015.

Relevant Planning Policies

National Planning Policy Framework

Oadby & Wigston Core Strategy

Core Strategy Policy 1 Wigston	:	Spatial Strategy for Development in the Borough of Oadby & Wigston
Core Strategy Policy 2 Wigston	:	Development in the centres of Oadby, Wigston and South Wigston
Core Strategy Policy 4	:	Sustainable Transport and Accessibility
Core Strategy Policy 8	:	Climate Change and Renewable Energy
Core Strategy Policy 14	:	Design and Construction

Planning Considerations

The main issues to consider in the determination of this application are as follows:

- The principal of commercial development
- The impact of the proposal on the street scene
- The impact of the proposal on neighbouring residential properties.
- Highway Issues

The principal of commercial development

The principal of commercial development on this site has previously been established, as application 14/00498/FUL for the erection of a retail unit has previously been approved.

The impact of the proposal on the street scene

The appearance of the proposed development and its relationship with its surroundings are a material consideration in determining planning applications and it is important that new development does not have a detrimental impact on the character and appearance or amenity of the area.

The application proposes relocating the store to the originally intended position following comments from members at committee. In application 14/00498/FUL as originally submitted the proposal was to locate the store 4.3 metres from Chartwell Drive. The builder's merchant on the opposite corner of Chartwell Drive and West Avenue is set back approximately 6 metres from the highway. The proposed retail store would be closer to the highway than any other buildings along Chartwell Drive. The agent was made aware of these concerns and the plans were amended to set the store 5.6 metres back from Chartwell Drive, resulting in a gap of 3 metres between the proposed store and the public house but this was considered to be sufficient distance between the buildings to provide good natural surveillance.

At the meeting of the Development Control committee on 2 April 2015 a member commented on the 3 metre gap between the public house and store stating that there was no lighting there or at the back of the pub. This led to the imposition of two conditions (14 and 15), relating to details of external CCTV provision and external lighting for the site being submitted to and approved by the Local Authority and subsequently implemented.

The proposed plans in this application would leave a gap of 4.7 metres between the store and public house. Although the proposal would be closer to Chartwell Drive, the difference between the two applications is 1.7 metres which is not considered to warrant a refusal of the application. In addition, the impact of the wall in the street scene would be partly reduced by the existing vegetation which would be trimmed.

The front elevation (facing West Avenue) consists of brickwork and clear glazed aluminium shop front. The extent of glazing on the front elevation would help to break up the overall mass of the building. The side elevation (facing Chartwell Drive) shows a combination of brickwork and smooth render. Three rendered bays with brick columns separating the bays helps to visually reduce the

mass of the building and provides some form of variation with the design and materials. The impact of the side elevation will be reduced by the retention of the existing hedge.

The bin, plant and cage area would be located to the rear of the store enclosed by a 2.7 metre high acoustic fence. Whilst it would have been preferable for the fence to be set further back from Chartwell Drive, given the industrial character of the area it is not considered to be so adverse as to warrant refusal of the application.

The impact of the proposal on neighbouring residential properties.

The site is located just outside of an industrial estate and the front entrance is approximately 4.7 metres away from the nearest windows of the residential accommodation at first floor level above the Chartwell Arms public house, therefore the key consideration is the impact on the residential amenity of nearby properties.

The application form states that the proposed opening hours of the store are 07:00 – 23:00 7 days a week. Additional information submitted by the applicant indicates that deliveries would take place between 06:00 and 21:00.

A preliminary selection of new items of plant for the proposed convenience store indicates that 1 No. condenser, 2 No. heat pumps, and 1 No. A/C unit would be required.

The Environmental Health Officer (EHO) previously raised concerns with the potential for noise disturbance from vehicles visiting the site and from plant and machinery to the residential accommodation at first floor level above the Chartwell Arms public house. No such concerns have been raised with regards to this application.

It was also previously recommended that a condition be imposed to restrict vehicle movements for the purpose of deliveries and plant maintenance. Condition 11 was imposed to restrict deliveries to the following hours:

Monday – Saturday -	07:00 – 18:00
Sunday and Bank Holiday	10:00 – 18:00

As for plant and machinery, the EHO previously recommended that a condition is imposed limiting the noise. Condition 12 was imposed restricting the level of noise from the plant and machinery to 3Db(A) above ambient noise levels when measured 1 metre from the first floor windows of the nearby residential properties.

The Council's Supplementary Planning Guidance suggests that the Local Planning Authority will consider imposing conditions restricting opening hours in areas of mixed land use, where a service is provided to the general public which can be conducted without detriment to the amenity of residential properties to 07:30 – 22:00 Monday-Saturday and 09:00 - 21:00 on Sundays. In this case, however, taking into account the location of the car park to the rear of the proposed store and the distance from neighbouring residential properties, the revised trading hours of 07:00 – 23:00 seven days a week including Bank Holidays is considered to be acceptable.

Highways issues

With regards to car parking, it was previously considered that the 13 car parking spaces for the retail unit and 16 car parking spaces for the public house would be sufficient, as the time of day when demand would be highest for each business would differ, resulting in a shared parking area that provides adequate parking provision throughout the day. With regards to deliveries, it was previously considered that deliveries would take place during periods when vehicle demand is low and therefore it is unlikely that service vehicles would park on-street or require visitors to park on-street.

The Highway Authority previously raised concerns with the position of the ATM on the east side of the proposed store facing West Avenue which would increase the possibility of customers parking within the highway to access the proposed store. The ATM has been re-sited internally.

Traffic Regulation Order (TRO)

There are currently waiting restrictions in place along West Avenue and Chartwell Drive. These waiting restrictions apply for the busiest times of the day, 8am - 6.30pm, when demand for the junction of Chartwell Drive and West Avenue is at its highest.

The Highway Authority considered that customers of the proposed store may park within these areas during times that are not currently covered by the waiting restriction, resulting in obstacles within the highway for vehicles entering and exiting Chartwell Drive. Therefore, the Highway Authority previously advised that a Section 106 Agreement be entered into between the developer and the Highway Authority, where a contribution of £10,000 will be held for a two year period. This would cover the cost of implementing a Traffic Regulation Order (TRO) that will further restrict parking in these areas. The intention of the TRO would be to provide a double yellow line from the access to the site on Chartwell Drive, leading to West Avenue and the section of highway fronting the proposed store and public house, with the double yellow line terminating at the bus stop further along West Avenue.

This requirement was not included within the officer recommendation to committee as the Highway Authority could not be certain that vehicles would park within the highway and therefore the TRO would not satisfy the CIL tests as it could not be considered necessary to carry out the development.

At the Development Control committee meeting on 2 April 2015, however, members suggested that a TRO should be put in place so that the issue of parking and traffic was minimised. It was resolved that a condition should be put in place regarding a TRO and condition 16 was subsequently imposed as follows:

“No development shall take place until a Traffic Regulation Order relating to parking restrictions on West Avenue and Chartwell Drive (which shall result in continuous double yellow lines from the access to the site on Chartwell Drive, leading on to West Avenue and the section of the highway fronting the proposed convenience store and public house, with the double yellow line terminating at the bus stop further along West Avenue) have been submitted to the Leicestershire County Council (as Highway Authority) and consultation have been commenced and evidence to such effect has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory form of access and in the interests of highway safety and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policy 4.”

The applicant now wishes to Removal of Condition 16 to allow development to commence prior to the submission of a Traffic Regulation Order (TRO). Although the applicant does not believe that a TRO is strictly necessary in these circumstances, they are willing to replace the condition with an appropriate Unilateral Undertaking.

The Local Highway Authority's response was initially that it would be reluctant to replace the condition with a Unilateral Undertaking because of the lead-in times associated with the implementation of TROs and the LHA was of the opinion that the process should be commenced prior to development, so that reasonable endeavours to implement the TRO would have been undertaken prior to first use.

However, in light of further consultation, legal advice and being mindful of not wishing to unduly resist the application, the LHA has altered its response, stating as follows:

“Whilst the LHA would prefer the original TRO condition 16 to be re-conditioned to this consent, if the LPA are minded to agree to the effective removal of condition 16 detailed in the previous consent 14/00498/FUL in favour of the applicant entering into a Unilateral Undertaking in regard to this resubmission application, the Highway Authority would accept this mechanism provided it allows the Traffic Regulation Order and associated consultation process to be initiated prior to first use of the development and entirely at the applicant’s expense which would involve all costs incurred by the LHA in consulting on, and any subsequent delivery of, the TRO. For avoidance of doubt, the wording of the Unilateral Undertaking in regard to the TRO should be agreed by the LPA in consultation with the Highway Authority prior to consent”.

It is therefore considered that condition 16 may be removed, but as an alternative, a Unilateral Undertaking would be required which secures the finances for Leicestershire County Council to undertake consultation and investigation into whether a new Traffic Regulation Order would be required to further limit parking on Chartwell Drive and West Avenue. The Unilateral Undertaking would also provide the resources for implementing the TRO, if appropriate.

Conclusion

In summary, the principal of retail development in this location and the impact on the character and appearance of the street scene are considered to be acceptable. The impact on neighbouring residential properties is considered to be acceptable. The impact on the highway is considered to be acceptable, subject to the submission of an appropriately worded Unilateral Undertaking which secures a contribution for the Highway Authority to monitor the development to determine whether any on-street parking occurs before proceeding with a TRO if appropriate.

Implications Statement

Health	No Significant implications
Environment	No Significant implications
Community Safety	No Significant implications
Human Rights	The rights of the applicant to develop his property has to be balanced against the rights of neighbours.
Equal Opportunities	No Significant implications
Risk Assessment	No Significant implications
Value for Money	No Significant implications
Equalities	No Significant implications
Legal	No Significant implications

Recommendation

That authority be delegated to the Senior Planner to **GRANT** conditional planning permission, subject to the conditions which follow and, subject to timely receipt of a unilateral planning obligation in acceptable terms not later than 27 September 2015 (or another date as agreed in writing by the Local Planning Authority) to secure the payment of £10,000 to be held as a bond for the implementation of a Traffic Regulation Order within two calendar years of the opening of the proposed store. If a suitable and timely Unilateral planning obligation is not received, then **REFUSE** planning permission.

Subject to the following condition(s)

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Prior to the commencement of development details of all materials to be used externally shall be submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out using the agreed materials.

Reason: To safeguard the character and appearance of the building and its surroundings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 3 Prior to the commencement of development the colour of the proposed render (either self-coloured or by means of a painted finish) shall be submitted to and approved in writing by the Local Planning Authority. The render (including its agreed colour) shall be completed within 2 months of the substantial completion of the development.

Reason: To safeguard the character and appearance of the building and its surroundings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14 and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 4 Prior to the commencement of development a detailed scheme of landscaping and measures for the protection of the hedge to be retained during the course of development shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that a landscaping scheme is provided to enhance the development and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 5 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that an approved landscaping scheme is implemented in a speedy and diligent way and that initial plant losses are overcome in the interests of the visual amenities of the locality and the occupiers of adjacent buildings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 6 Prior to the first occupation of the building hereby granted permission the access and parking areas shown on the approved plan shall be provided in a bound material and thereafter made available at all times for their designated purposes.

Reason: As recommended by Leicestershire County Council (Highways) in the interests of highway safety and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policy 4.

- 7 Notwithstanding the submitted details, prior to the commencement of development details of secure cycle parking provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided prior to the first occupation of the building and unless otherwise first agreed in writing by the Local Planning Authority maintained as such for the life of the development.

Reason: As recommended by Leicestershire County Council (Highways) and to encourage sustainable alternatives to the motor car and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policy 4.

- 8 Prior to the commencement of development a scheme for the disposal of foul sewerage and surface water drainage for the site (based on sustainable drainage principles) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the first dwelling and, unless otherwise first agreed in writing by the Local Planning Authority, shall be maintained as such for the life of the development.

Reason: To ensure adequate drainage facilities are provided to serve the development and to prevent pollution of the water environment and to prevent run off to the highway as recommended by Leicestershire County Council (Highways) and in accordance with the aims and objectives of the National Planning Policy Framework.

- 9 If during the course of development, contamination not previously anticipated or previously identified is found to be present on the site, then no further development (unless otherwise first agreed in writing with the Local Planning Authority) shall be carried out until a method statement detailing how and when the contamination is to be dealt with has been submitted to and approved in writing by the Local Planning Authority. The contamination shall then be dealt with in accordance with the approved details.

Reason: In order to safeguard human health and the environment and identify potential contamination on-site and the potential for off-site migration as recommended by the Environmental Health Manager and in accordance with the aims and objectives of the National Planning Policy Framework.

- 10 The use hereby permitted shall not be open to customers between 23:00 and 07:00.

Reason: In the interests of the amenities of local residents and the locality in general in compliance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 11 No deliveries shall be taken at or despatched from the site except between the hours of 7.00am and 6.00pm Monday to Saturday and 10.00am to 6.00pm on Sundays or Bank Holidays.

Reason: In the interests of the amenities of local residents and the locality in general in compliance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 12 The plant and machinery shall be adequately protected so that the noise emitted from them does not increase the background noise level when measured 1 metre from the first floor windows of nearby residential properties by more than 3dB(A).

Reason: In the interests of the amenity of the adjoining residential properties and the locality in general in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14 and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 13 Prior to the commencement of development details of the plant and machinery shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided prior to the first occupation of the building and unless otherwise first agreed in writing by the Local Planning Authority maintained as such for the life of the development.

Reason: In the interests of the amenity of the adjoining residential properties and the locality in general in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14 and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 14 Prior to the first occupation of the building full details of external CCTV provision for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the building and unless otherwise first agreed in writing by the Local Planning Authority maintained as such for the life of the development

Reason: In the interests of security and crime reduction and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policy 14.

- 15 Prior to the first occupation of the building full details of external lighting for the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the building and unless otherwise first agreed in writing by the Local Planning Authority maintained as such for the life of the development.

Reason: In the interests of security and crime reduction and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policy 14.

- 16 Unless otherwise first approved in writing (by means of a Non-material Amendment/Minor Material Amendment or a new Planning Permission) by the Local Planning Authority the

development hereby permitted shall be carried out in accordance with the approved plans and particulars listed in the schedule below.

Reason: For the avoidance of doubt as to what is permitted by this permission and in the interests of proper planning.

Note(s) to Applicant :

- 1 For the avoidance of doubt this permission relates to the following plans and particulars:-

Site Location Plan - Corstorphine+Wright - RF30-0300 Rev B - received by the Local Planning Authority on 11 June 2015.
Existing Site Plan - Corstorphine+Wright - RF30-0301 - received by the Local Planning Authority on 11 June 2015.
Proposed Site Plan - Corstorphine+Wright - RF30-0302 Rev D - received by the Local Planning Authority on 11 June 2015.
Proposed GA Floor Plan - Corstorphine+Wright - RF30-0303 Rev C - received by the Local Planning Authority on 11 June 2015.
Proposed GA Roof Plan - Corstorphine+Wright - RF30-0304 - received by the Local Planning Authority on 11 June 2015.
Proposed Elevations - Corstorphine+Wright - RF30-0305 Rev D - received by the Local Planning Authority on 11 June 2015.
- 2 You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section.
- 3 If the proposal involves the carrying out of building work along or close to the boundary, you are advised that under the Party Wall Etc. Act 1996 you have a duty to give notice to the adjoining owner of your intentions before commencing this work.
- 4 For the avoidance of doubt this permission does not authorise any development outside the application site including any foundation, footings, fascias, eaves, soffits, verges or guttering.
- 5 You are advised that any amendments to the approved plans will require either a Non-Material amendment application, a Minor Material Amendment application or a new planning application. If this is the case then you should allow at least 8 weeks before the intended start date to gain approval for such amendments. Further advice can be obtained by contacting the Planning Section of the Council on any amendments (internal or external).
- 6 This permission requires you to submit further details to the Local Planning Authority on the proposal prior to the commencement of works on site. There is a fee payable to the Local Planning Authority when a request is made for the discharge of one or more conditions on the same permission or for confirmation of compliance with a condition or conditions. At the time of writing, the fee is payable per written request to discharge conditions not per condition and therefore any number of conditions may be included on a single request. The fee for such a request associated with this permission (at the time of this decision notice) is £97. The fee must be paid when the request is made. The Local Planning Authority has a statutory period of 8 weeks for the determination of such requests.
- 7 This does not convey consent for any advertisements to the premises for which separate consent must be obtained.
- 8 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001).

- 9 With regards to condition 7, the applicant is advised to locate the cycle stand closer to the building.
- 10 With regards to condition 14, the applicant is advised that the CCTV provision must cover the whole site, including the alleyway between the existing public house and the proposed retail store.
- 11 With regards to condition 15, the applicant is advised that the details of external lighting should include lighting within the car park and between the existing public house and the proposed retail store.
- 12 In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application and this has resulted in the approval of the application. The Local Planning Authority has therefore acted proactively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

13 **Appeals to the Secretary of State**

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Telephone 0303 444 5000) or online at www.planningportal.gov.uk/pcs.

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

Purchase Notices

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.