MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT THE COUNCIL OFFICES, STATION ROAD, WIGSTON ON THURSDAY, 12 MAY 2016 COMMENCING AT 7.00 PM

IN ATTENDANCE:

Chair - Councillor L A Bentley Vice-Chair - Councillor Mrs L M Broadley

COUNCILLORS (12):

G S Atwal B Dave Mrs S Z Haq
G A Boulter R F Eaton J Kaufman
F S Broadley R Fahey Dr T K Khong
D M Carter D A Gamble R E R Morris

OFFICERS IN ATTENDANCE (5):

S J Ball J Carr T Boswell D Gill A Thorpe

OTHERS IN ATTENDANCE (4):

Councillor Ms A R Bond M Crew Miss S Gutteridge F Robson

Min Ref.	Narrative	Officer Resp.
64.	APOLOGIES FOR ABSENCE	
	An apology for absence was received from Councillors T Barr and Mrs H E Loydall.	
65.	APPOINTMENT OF SUBSTITUTES	
	Councillor B Fahey substituted for Councillor T Barr.	
66.	DECLARATIONS OF INTEREST	
	In respect of planning application number 16/00025/FUL:	
	(i) The Chair, Councillor L A Bentley, declared a non-pecuniary interest insofar as he was a Governor and the Chair of the Resources Committee at the Birkett House School, Wigston. The Member stated that he would leave the Chamber during consideration of the application by the Committee;	
	(ii) Councillor G A Boulter declared a non-pecuniary interest insofar as he was a Consultee to the application. The Member stated that he would leave the Chamber during consideration of the application by the Committee; and	
	(iii) Councillors J Kaufman and D A Gamble declared a non-pecuniary interest insofar as they had spoken to a Planning Officer at Leicestershire County Council about the application.	
	In respect planning application number 16/00089/LDO:	

- (i) Councillor D M Carter declared a non-pecuniary interest insofar as number of residents of the Oadby St Peters ward had made representations to him. He stated that he did not express a view to upon the same.
- (ii) Councillor G A Boulter declared a non-pecuniary interest insofar as he was a parishioner of a Methodist Church located elsewhere in the Borough.

All Members confirmed that they attended the meeting without prejudice and with an open mind.

67. | MINUTES OF THE PREVIOUS MEETING HELD ON 14 APRIL 2016

RESOLVED THAT:

The minutes of the previous meeting of the Committee held on 14 April 2016 be taken as read, confirmed and signed.

68. | PETITIONS AND DEPUTATIONS

One petition was received by the Committee objecting to the Local Development Order at Brooksby Square, Oadby (16/00089/LDO) entitled 'Save our East Street Car Parking Spaces' as set out at agenda item 5a (at pages 5 - 9).

68 (A 'SAVE OUR EAST STREET CAR PARKING SPACES' E-PETITION

No local government elector of the Borough who was a signatory thereof presented nor spoke upon the Petition.

The Chair requested that Members be mindful of the Petition when considering the relevant application.

69. CAPITAL ASSET VALUE FOR AMENITY TREES (CAVAT)

The Committee gave consideration to the report (at pages 10 - 11) as delivered and summarised by the Interim Planning Control Manager which should be read together with these minutes as a composite document.

The Interim Planning Control Manager emphasised that the CAVAT method was applied nationally by many local authorities to determine an amenity, as opposed to a commercial, value of any given tree.

UNANIMOUSLY RESOLVED THAT:

The Capital Asset Value for Amenity Trees method be approved for the future use of Planning and Arboricultural Officers as evidence of a tree's assessed amenity value in tree-related disputes and negotiations.

In accordance with Rule 7.3 of Part 4 of the Constitution, the Chair moved for the order of business to be altered and taken in the order as reflected in the minutes.

RESOLVED THAT:

The order of business be altered, accordingly.

70. LOCAL DEVELOPMENT ORDERS (LDO'S)

The Planning Policy and Regeneration Manager provided a brief introduction to Local Development Orders (LDO's).

He stated that an LDO granted a form of conditional outline planning permission for types of development which the Council considered to be suitable on a site. It was said to represent a proactive approach on the part of the Council to take control over the regeneration of the Borough's town centres and secure appropriate development and car parking provision on key sites.

He reported that the Council had undertaken two rounds of public consultation between December 2015 and January 2016 which related to test layouts and design principles and a statutory consultation between February and March 2016 on the draft LDO's. It was said this amounted to much more public consultation than would ordinarily be carried out in relation to a standard planning application and provided the community with more of an involvement in deciding what is built on the sites.

He stated that in addition to the LDO's themselves, Design Guides had been prepared which set out what is likely to be acceptable on the sites and the design principles that should inform development proposals. It was said that these would assist the Council in the consideration of any submitted proposals for the sites.

70a. | STATION STREET, SOUTH WIGSTON

The Committee gave consideration to the report and appendices (at pages 29 - 72) as delivered and summarised by the Planning Policy and Regeneration Manager which should be read together with these minutes as a composite document.

The Planning Policy and Regeneration Manager reported that the LDO for Station Street, South Wigston permitted use class C3 Dwelling Houses and within use class D1, Clinics and Health Centres only. It was said that comments received during the statutory consultation primarily related to the relationship between the LDO site and neighbouring sites and whether there was a need for a GP surgery in the area. He stated that the Design Guide took account of neighbouring sites and the wider context of the area. The Council's discussions with the NHS was said to confirm the need to replace the existing GP surgery with a modern facility.

Councillor G A Boulter advised Members to be mindful about the loss of decision-making powers of this Committee should any of the three LDO's not be approved. In respect of this LDO, he invited future developers to be aware of the potential for increased traffic flow and, or, congestion along Station Street and Kirkdale Avenue.

Councillor G S Atwal asked whether the minimum requirement of 10% of the new homes as may be permitted for affordable housing could be increased

to 25%.

The Planning Policy and Regeneration Manager stated that the proposed 10% was in line with the Council's Core Strategy and calculated upon the results of a viability study.

The Member enquired as to whether rear-access to the site could be better achieved via Bennett Way.

The Chair stated that such rear-access had previously been raised by Members in earlier meetings of this Committee and remained an aspiration of the Council.

The Chair sought further clarification as to Councillor G A Boulter's earlier reference to a loss of Committee decision-making powers.

The Planning Policy and Regeneration Manager advised that should the Council not be able to demonstrate or deliver on its five-year housing land supply, the Council may be subject to a legal challenge and, subsequently, ordered to develop land which it has not previously earmarked nor considered to be suitable for development.

The Chair moved the recommendation as set out at paragraph 2.1 of the report.

Councillor R E R Morris seconded the recommendation.

UNANIMOUSLY RESOLVED THAT:

The Local Development Order for Station Street, South Wigston (as set out in Appendix 1) be **ADOPTED** and its related Design Guidance (as set out in Appendix 2) be **APPROVED**.

70b. LONG LANES, WIGSTON

The Committee gave consideration to the report and appendices (at pages 73 - 122) as delivered and summarised by the Planning Policy and Regeneration Manager which should be read together with these minutes as a composite document.

The Planning Policy and Regeneration Manager reported that the LDO for Long Lanes, Wigston permitted use classes A2 Financial and Professional Services, B1a Business, C3 Dwelling Houses and within use class D2, Gymnasiums in addition to use classes A1 Shops and A3 Restaurants and Cafes at ground floor level only. It was said that comments received during the statutory consultation primarily related to concerns over loss of car parking spaces, support for two-way traffic at the eastern end of Paddock Street and support for improving Long Lane throughout the site.

He stated the LDO was clear at paragraph 2.2.12 that there must be no overall loss of Council-owned car parking spaces and that implementation of the LDO would not result in fewer spaces. He stated that Condition 4 of the LDO had been amended to require a strategy for replacement car parking and a car park management plan to demonstrate how the parking elements of the development would be managed without impacting upon Council-

owned car parking spaces.

Councillor G A Boulter stated that the Long Lanes pathway should not be diverted given to its historical importance. He further requested that the Council's aspiration for two-way traffic at the eastern end of Paddock Street be realised and that the number of car parking spaces both during and after any construction period be maintained in order to preserve customer/traders' access to town centre amenities, including access to Age Concern on Paddock Street for those residents of limited mobility.

The Planning Policy and Regeneration Manager advised that that it was a clear condition of the LDO that submitted proposals must be accompanied by a strategy for parking provision before the Council would issue a Certificate of Compliance to ensure no loss of car parking spaces during and after any construction period.

Councillor B Dave enquired as to the Council's responsibility in respect of the management of any strategy for replacement parking provision.

The Planning Policy and Regeneration Manager advised that the onus was to be assumed by any prospective developer to prepare and demonstrate the viability of any car park management plan to ensure no loss of car parking provision. He stated that no strategy could be pre-empted until an application(s) was submitted.

Councillor G A Boulter enquired as to who the legal proprietor of the site was and whether any prospective development would be completed in a single phase.

The Planning Policy and Regeneration Manager advised that the Council was the legal proprietor of the car park on Paddock Street and that the remainder of the site was under the mixed ownership of a number of private individuals and, or, entities.

The Chair stated that phasing of any development could not be commented upon until such time as a developer submitted an application to develop the site, or part thereof.

The Member further requested that the archaeology of the site be properly surveyed before the commencement of any development thereon.

The Planning Policy and Regeneration Manager stated that the appropriate authorities had been contacted who in turn advised that the site was of no archaeological significance within the outline of the LDO plan. He assured the Member that the LDO could be amended to ensure that the necessary surveys were undertaken prior to development.

The Chair moved the recommendation as set out at paragraph 2.1 of the report.

Councillor Mrs S Z Hag seconded the recommendation.

RESOLVED THAT:

The Local Development Order for Long Lanes, Wigston (as set out in

Appendix 1) be **ADOPTED** and its related Design Guidance (as set out in Appendix 2) be **APPROVED**.

Votes For 10 Votes Against 0 Abstentions 4

70c. BROOKSBY SQUARE, OADBY

Mr Frazer Robson, a Town Planning Consultant, spoke upon the application on behalf the Trinity Methodist Church, Oadby and the Oadby Civic Society as an objector.

Mr Robson stated that the majority of responses received during the statutory consultation objected to the LDO and that the Committee ought to give weight to the same. It was said that any loss of car parking spaces at East Street would adversely affect the viability of local businesses and community-used facilities and that any replacement parking would not be so conveniently located. With reference to the Council's Core Strategy and the Oadby Town Centre Master Plan Area, he stated that the LDO's 2026 target of 81 new homes had already been met within the boundary area by other schemes and that the Council's latest Residential Land Availability Assessment (April 2015) showed that enough land had been identified to meet its 5-year housing land supply arrangements.

Mr Robson further opined that the site was currently in productive use and could not be properly considered as brownfield land for development purposes. It was said that a proposed health centre would place further demand on car parking spaces on East Street. With reference to paragraph 3.9 of the report, he stated that there was no requirement for the Council to follow the Planning Inspector's recommendation(s). It was also stated that the LDO and the Design Guidance did not provide robust enough guidance to allow the Council effective control over any future development, or extent thereof, and alleged that the procedure by which the LDO sought approval represented irregular practice.

Miss Samantha Gutteridge, a local business owner, spoke upon the application on behalf of the Oadby Town Centre Retailers' Association as an objector.

Miss Gutteridge stated that any loss of car parking spaces at East Street, albeit temporary, would adversely affect the viability of local businesses insofar as it is more easily visible to and accessible by many shoppers originating from outside the Oadby area than the car park on Sandhurst Street, Oadby. She opined that the car park surveys conducted in March 2016 did not typically reflect busy trading periods and that a proposed health centre would require additional car parking provision. She warned that any proposed development ought to be mindful about the consequences as to increased traffic flow to the surrounding site areas.

Councillor Ms A R Bond, elected-Member for the Oadby St Peters ward, spoke upon the application.

The Member stated that the cark park on East Street was ideally-situated to attract passing trade from the A6 and that any proposed development on the

site would obscure the car park's high visibility, result in a further loss of trees and green-areas and cause traffic congestion along The Parade, Oadby. The Member invited the Committee to refuse the LDO citing the 1000+ objections lodged by local residents.

The Committee gave consideration to the report and appendices (at pages 123 - 180) as delivered and summarised by the Planning Policy and Regeneration Manager which should be read together with these minutes as a composite document.

The Planning Policy and Regeneration Manager reported that the LDO for Brooksby Square, Oadby permitted use class C3 Dwelling Houses and within use class D1, Clinics and Health Centres only. It was said that comments received during the statutory consultation primarily related to car parking, opposition to the provision of a health centre and housing on the site and suggestions that the Council had already met its housing target in the town centre. It was said that there was also support for improving the appearance of the car park, the redevelopment of a brownfield site and the provision of affordable and appropriate housing for young people in Oadby.

He stated the LDO was clear at paragraph 2.2.14 that there must be no overall loss of Council-owned car parking spaces and that the implementation of the LDO would not result in fewer spaces. It was said that Oadby was a compact centre and that both of the Council-owned car parks were conveniently located in order to support all town centre retailers and uses (as illustrated in Appendix 5 at page 180). He stated that need for additional car parking spaces was not bourne out by the Council's car parking counts undertaken in March 2016 and that the provision of additional car parking spaces is unrelated to the LDO. He stated that Condition 4 of the LDO had been similarly amended as per the LDO at Long Lanes, Wigston.

He reported that the Council had not met its housing target in the town centre. He stated that Figure 3 of the Core Strategy referred to housing opportunities within the town centre master plan area and sought the provision of 81 dwellings. The Town Centre Boundary defined in Policy 5 of the Town Centres Area Action Plan was said to be consistent with and based upon the town centre master plan area to which Area Action Plan Policy 18 related. He reported that presently 36 dwellings were completed or committed within the town centre boundary and that the housing requirement was expressed as a minimum and the delivery of new homes was a core planning principle of the National Planning Policy Framework. It was stated that the Council had an agreed strategy to focus as much new housing in the town centres and urban areas as possible in order to protect greenfield land.

The Chair enquired as to whether the LDO set the principle for development on the site.

The Planning Policy and Regeneration Manager advised that the site had already been allocated for development in the Town Centres Area Action Plan which was adopted in 2013 and that a developer could apply for planning permission to develop the site at any time regardless of whether or not a LDO was in place.

The Chair enquired as to whether the LDO would result in any loss of Council-owned public car parking spaces.

The Planning Policy and Regeneration Manager reiterated that the LDO stated that there must be no overall loss of Council-owned car parking spaces available to the public in the town centre. It was said that it was a condition that submitted proposals must be accompanied by a strategy for replacement parking provision that sets out how this was to be achieved. He added that if the Council was not content with the submitted strategy for replacement parking provision, or if a submitted proposal were to result in an overall loss of Council-owned car parking spaces within the town centre, then the Council would not issue a Certificate of Compliance and development would not be able to take place. It was further said that it was also a condition that submitted proposals must be accompanied by a car park management plan that would demonstrate how the parking elements of the development will be managed to ensure that appropriate arrangements were in place to provide a sufficient number of car parking spaces related to the development itself.

Councillor D M Carter stated that there was an overwhelming consensus amongst Oadby residents that the proposed LDO could not maintain and, or, enhance the viability and vitality of Oadby town centre primarily because of the belief as to a loss of car parking provision at East Street. The Member further enquired as: to how many residential units were anticipated to be delivered; how many months land supply this represented and; whether 90 of the Council-owned car-parking spaces sited within the LDO boundary would be lost during any construction period.

The Planning Policy and Regeneration Manager advised that 100 residential units were required per annum equating to a land supply of 3.5 months. He further advised that any loss would be mitigated by the submission of a strategy for replacement parking provision by the developer and that the replacement spaces would have to be found within the town centre boundary.

The Member enquired as to whether a prospective developer could challenge the decision to not issue a Certificate of Compliance.

Ms Mary Crew, a Town Planning Consultant at Peter Brett Associated LLP, advised that no legal challenge had hitherto been brought against a local authority in this respect and therefore the matter was untested.

Mr David Gill, the Committee's Legal Advisor, advised that a challenge may be sought via judicial view on the basis of Wednesbury unreasonableness: however the prospect of a successful challenge was said to be negligible. He reiterated that as the site had already been allocated for development, a developer could still apply for planning permission subject to ordinary planning procedure. He further noted that the Council's five-year housing supply was a variable aspect which required careful monitoring over time to ensure its continued viability.

Councillor J Kaufman echoed the concerns raised by Councillor D M Carter and invited work to be undertaken with all stakeholders to find a common solution. He stated that he was hopeful that Sandhurst Street would be incorporated into any future revision of the LDO to alleviate the pressure on

East Street.

The Planning Policy and Regeneration Manager advised that approval of the recommendation would put the Council in the best possible position to take control of development in the Borough in the future. He emphasised that Members had previously agreed the strategy set out in the adopted Core Strategy to focus development in the town centres and urban areas. Accordingly, it was said that the Council had adopted a Town Centres Area Action Plan which allocated suitable sites for development, including the site to which this LDO related and the site at Sandhurst Street. The purpose of the LDO was said to assist in bringing forward development on the allocated site by providing certainty to a prospective developer.

Councillor J Kaufman moved for the Local Development Order at Brooksby Square, Oadby and its related Design Guidance to be refused.

Councillor D A Gamble seconded Councillor J Kaufman's motion.

Councillors Mrs S Z Haq, G S Atwal and B Dave further stated they were not in support of the LDO for the same reasons aforementioned.

Councillor G A Boulter warned the Committee that, should Members be minded to refuse the LDO, development may be potentially forthcoming on greenfield sites in Oadby: however, he noted the importance of the view(s) expressed by the residents of Oadby.

RESOLVED THAT:

The Local Development Order at Brooksby Square, Oadby (as set out in Appendix 1) and its related Design Guidance (as set out in Appendix 2) be **REFUSED**.

Votes For 10 Votes Against 3 Abstentions 1

Councillor D A Gamble left the Chamber at 8:44 pm.

71. REPORT OF THE PLANNING CONTROL MANAGER

The Committee gave consideration to the report (at pages 12 - 28) as delivered and summarised by the Interim Planning Control Manager, together with the supplementary agenda update (at pages 1 - 3) as tabled at the meeting, which should be read together with these minutes as a composite document.

1. Application No. 16/00025/FUL - Abingdon House, 85 Station Road, Wigston, Leicestershire, LE18 2DP

Councillor L A Bentley spoke upon the application.

The Member said that existing building housing the Birkett House School was in a state of considerable disrepair and that the proposed development, if permitted, would provide a range of improved facilities to the benefit of school community and the wider Little Hill Estate in Wigston. He noted that

the anticipated loss of trees from the site was mitigated by the application's commendable landscaping that would otherwise provide pupils with a heightened sensory experience. He stated that the prospect of increased traffic to and from the site would not have a comparatively discernible impact and that the new site accommodated more off-street parking. He praised the work undertaken by the staff and governors at the schools in providing an excellent learning environment for its special educational needs students.

Councillor L A Bentley left the Chamber at 8:55 pm.

Councillor G A Boulter spoke upon the application.

The Member expressed his disappointment about the school's lack of respite care provision which was concern to be addressed by Leicestershire County Council. He raised a concern as to the felling of a number of trees on site before the submission of the application and was hopeful that this application would provide the opportunity for replacement planting. He further suggested that boundary treatment should be applied to site's perimeter security fencing in the interim period whilst foliage grows. A concern was also raised as to the potential access implications on the roads junctures adjoining the site. He stated that he was in support of application provided that the correct decisions were taken to maintain the visual amenity of the surrounding area.

Councillor G A Boulter left the Chamber at 9:01 pm.

The Interim Planning Control Manager summarised the planning application's site and location, relevant planning history, consultations, representations and planning considerations, identifying the relevant planning policies as detailed in the report (at pages 18 - 23). He summarised the report's conclusion (at page 23), stating that the application was recommended for approval subject to the prescribed conditions.

The Interim Planning Control Manager reported that the application had attracted widespread support and commended the high-quality of architecture and landscaping. He further added the Consultee, Sport England, had conditionally withdrawn their objection to the application subject to undertaking of agreement pursuant to the Town and Country Planning Act 1990, section 106 ("section 106 Agreement") as set out in the supplementary agenda update (at page 2) to be finalised.

The Vice-Chair, Councillor Mrs L M Broadley, enquired as to possibility of detailing to the perimeter security fence and whether a planning condition could be inserted for replacement planting of trees.

The Interim Planning Control Manager advised that details regarding the detailing regarding the fencing would be received in accordance with the planning condition. He stated that a condition regarding replacement planting may present difficulties as the trees previously felled were located beyond the application site.

Councillors Mrs S Z Haq and J Kaufman commended the application for approval.

Councillor R E R Morris enquired as to what part of the former Guxlaxton College was to be demolished to accommodate the application.

The Interim Planning Control Manager stated that delegated planning permission was granted for the removal of a single-storey block and tennis courts on site as an enabling measure.

The Vice-Chair moved the recommendation for approval of planning permission subject to the satisfactory completion of the section 106 Agreement and moved that delegated authority to be granted to the Planning Officer to determine financial contribution payable under the said Agreement.

Councillor J Kaufman seconded the recommendation and motion.

UNANIMOUSLY RESOLVED THAT:

- (i) The application be **PERMITTED** planning permission subject to the satisfactory completion the section 106 Agreement; and
- (ii) That delegated authority be granted to Planning Officers to determine financial contribution payable under the section 106 Agreement.

Councillors L A Bentley and G A Boulter returned to the Chamber at 9:15 pm.

2. Application No. 16/00022/TPO - 16 Knighton Rise, Oadby, Leicester, LE2 2RE

The Interim Planning Control Manager summarised the planning application's site and location, relevant planning history, consultations, representations and planning considerations, identifying the relevant planning policies as detailed in the report (at pages 13 - 17). He summarised the report's conclusion (at page 17 of the agenda and page 1 of supplementary agenda update) stating that the application was again recommended for refusal of consent to remove the tree, having been previously deferred from the previous meeting of the Committee held on 14 April 2016.

The Interim Planning Control Manager further advised that if Members were minded to refuse consent, the extent of any financial liability was limited to the net additional loss or damage within a proceeding 12-month period.

The Chair stated that he was not convinced by the further evidence, or lack thereof, provided by applicant's engineers that the tree in question was main attributable cause of movement of, and subsequent damage to, the building.

The Chair moved the recommendation for the refusal of consent to remove the tree.

Councillor J Kaufman seconded the recommendation.

UNANIMOUSLY RESOLVED THAT:

That application be **REFUSED** for consent to remove the tree.

72. LDO FEES

The Committee gave consideration to the report (at pages 181 - 183) as delivered and summarised by the Planning Policy and Regeneration Manager which should be read together with these minutes as a composite document.

The Chair moved the recommendations as set out at paragraph 2.1 of the report.

The Vice-Chair seconded the recommendations.

UNANIMOUSLY RESOLVED THAT:

- (i) The principle of charging fees for LDO's be approved;
- (ii) The scale of charges be approved and set at:
 - (a) 100% of the appropriate pre-application charge as per the Council's existing scale of charges; and
 - **(b)** 50% of the relevant full planning application fee as per the Council's existing scale of charges for a Certificate of Compliance.

THE MEETING CLOSED AT 9.21 PM

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CHAIR
THURSDAY, 28 JULY 2016