



# Oadby and Wigston Borough Council

## TO COUNCILLOR:

G S Atwal  
L A Bentley (Chair)  
G A Boulter  
Mrs L M Broadley (Vice-Chair)  
F S Broadley

D M Carter  
B Dave  
R Fahey  
D A Gamble  
Mrs S Z Haq

J Kaufman  
Dr T K Khong  
Mrs H E Loydall  
R E R Morris

Dear Councillor et al

I hereby summon you to attend a meeting of the **DEVELOPMENT CONTROL COMMITTEE** to be held at the **COUNCIL OFFICES, STATION ROAD, WIGSTON** on **THURSDAY, 25 AUGUST 2016** at **7.00 PM** for the transaction of the business set out in the Agenda below.

Yours faithfully

Council Offices  
Wigston  
17 August 2016

Mark Hall  
Chief Executive

## AGENDA

## PAGE NO'S

1. **Apologies for Absence**
2. **Appointment of Substitutes**  
To appoint substitute Members in accordance with Rule 4 of Part 4 of the Constitution.
3. **Declarations of Interest**  
Members are reminded that any declaration of interest should be made having regard to the Members' Code of Conduct. In particular, Members must make clear the nature of the interest and whether it is 'pecuniary' or 'non-pecuniary'.
4. **Minutes of the Previous Meeting held on 28 July 2016** 1 - 7  
To read, confirm and sign the minutes of the previous meeting in accordance with Rule 17 of Part 4 of the Constitution.
5. **Petitions and Deputations**  
To receive any Petitions and, or, Deputations in accordance with Rule 24 of Part 4 of the Constitution.
6. **Delegation to Officers of CLUED's and Similar Quasi-Judicial Decisions** 8 - 9
7. **Report of the Planning Control Manager** 10 - 18



**MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT THE  
COUNCIL OFFICES, STATION ROAD, WIGSTON ON THURSDAY, 28 JULY 2016  
COMMENCING AT 7.00 PM**

<b><u>IN ATTENDANCE:</u></b>		
Chair - Councillor L A Bentley Vice-Chair - Councillor Mrs L M Broadley		
<b><u>COUNCILLORS (10):</u></b>		
G S Atwal Miss A R Bond D M Carter M L Darr	B Dave R Fahey Mrs S Z Haq Mrs H E Loydall	Mrs S B Morris R E R Morris
<b><u>OFFICERS IN ATTENDANCE (5):</u></b>		
S J Ball Ms F Biddles	T Boswell Miss S Odedra	H Pearson
<b><u>OTHERS IN ATTENDANCE (1):</u></b>		
Councillor M H Charlesworth		

<b>Min Ref.</b>	<b>Narrative</b>	<b>Officer Resp.</b>
<b>1.</b>	<b><u>APOLOGIES FOR ABSENCE</u></b>  An apology for absence was received from Councillors G A Boulter, F S Broadley, D A Gamble, J Kaufman and Dr T K Khong.	
<b>2.</b>	<b><u>APPOINTMENT OF SUBSTITUTES</u></b>  Councillors Miss A R Bond, Mrs S B Morris and M L Darr substituted for Councillors Dr T K Khong, G A Boulter and J Kaufman, respectively.	
<b>3.</b>	<b><u>DECLARATIONS OF INTEREST</u></b>  None.	
<b>4.</b>	<b><u>MINUTES OF THE PREVIOUS MEETING HELD ON 12 MAY 2016</u></b>  <b>RESOLVED THAT:</b>  The minutes of the previous meeting of the Committee held on 12 May 2016 be taken as read, confirmed and signed.	
<b>5.</b>	<b><u>PETITIONS AND DEPUTATIONS</u></b>  None.	
<b>6.</b>	<b><u>REVIEW OF SCALE OF FEES AND CHARGES (BUILDING CONTROL)</u></b>  The Committee gave consideration to the report and appendices (at pages 13 - 23), together with the supplementary agenda update (at pages 1 - 3), as delivered and summarised by the Interim Planning Control Manager	

	<p>which should be read together with these minutes as a composite document.</p> <p>The Chair commended the work of the Building Control Surveyor.</p> <p>The Chair moved the recommendations <i>en bloc</i> as set out at paragraphs 2.1 to 2.3 of the report (at page 13).</p> <p>The Vice-Chair seconded the recommendations.</p> <p><b>UNANIMOUSLY RESOLVED THAT:</b></p> <p>(i) The Revised Scale of Fees and Charges be approved;</p> <p>(ii) The Revised Scale of Fees and Charges be operated with immediate effect; and</p> <p>(iii) The relevant Officers continue their efforts to achieve an equitable “cost-recovery” when charging or re-charging each case.</p>	
7.	<p><b><u>CONFIRMATION OF THE BOROUGH COUNCIL OF OADBY &amp; WIGSTON TREE PRESERVATION ORDER(S) 2016</u></b></p> <p>The Committee gave consideration to the reports and appendices (at pages 24 - 45) as delivered and summarised by the Arboricultural Officer which should be read together with these minutes as a composite document.</p>	
7a.	<p><b><u>LAND AT 18 NEWGATE END, WIGSTON, LEICESTERSHIRE, LE18 2GG</u></b></p> <p>Councillor Mrs H E Loydall moved the recommendation as set out at paragraph 2 of the report (at page 24).</p> <p>Councillor Mrs S B Morris seconded the recommendation.</p> <p><b>UNANIMOUSLY RESOLVED THAT:</b></p> <p>The Borough Council of Oadby &amp; Wigston (Land at 18 Newgate End, Wigston, Leicestershire, LE18 2GG) Tree Preservation Order 2016 be provisionally confirmed.</p>	
7b.	<p><b><u>LAND AT GRAND HOTEL, CANAL STREET, SOUTH WIGSTON, LEICESTERSHIRE, LE18 4PP</u></b></p> <p>Councillor R E R Morris noted the imminent danger posed to the trees in question and supported the Order’s confirmation, accordingly.</p> <p>Councillor Mrs S B Morris moved the recommendation as set out at paragraph 2 of the report (at page 30).</p> <p>Councillor D M Carter seconded the recommendation.</p> <p><b>UNANIMOUSLY RESOLVED THAT:</b></p> <p>The Borough Council of Oadby &amp; Wigston (Land at Grand Hotel, Canal Street, South Wigston, Leicestershire, LE18 4PP) Tree Preservation Order 2016 be confirmed.</p>	
7c.	<p><b><u>LAND AT REAR OF SAFFRON ROAD, SOUTH WIGSTON, LEICESTERSHIRE, LE18 4UN</u></b></p>	

	<p>Councillor R E R Morris noted the high volume of public interest received in respect of the trees in question and supported the Order's confirmation, accordingly.</p> <p>Councillor R E R Morris moved the recommendation as set out at paragraph 2 of the report (at page 39).</p> <p>Councillor Mrs S B Morris seconded the recommendation.</p> <p><b>UNANIMOUSLY RESOLVED THAT:</b></p> <p>The Borough Council of Oadby &amp; Wigston (Land at Rear of Saffron Road, South Wigston, Leicestershire LE18 4UN) Tree Preservation Order 2016 be confirmed.</p>	
8.	<p><b><u>REPORT OF THE PLANNING CONTROL MANAGER</u></b></p> <p>With reference to the supplementary agenda update (at pages 1 - 2), the Chair confirmed that the following applications were withdrawn from the consideration of this meeting of the Committee:-</p> <ol style="list-style-type: none"> <li>1. Application No. 12/00435/CLE – Beaumont Hall, Stoughton Drive South, Oadby, Leicester, Leicestershire, LE2 2NA</li> <li>2. Application No. 12/00437/CLE – Stamford Hall, Stoughton Drive South, Oadby, Leicester, Leicestershire, LE2 2NG</li> <li>3. Application No. 16/00024/FUL – 39 Long Street, Wigston, Leicestershire, LE18 2AJ</li> </ol> <p><b>4. Application No. 16/00163/FUL – 205 Wigston Road, Oadby, Leicestershire, LE2 5JF</b></p> <p>The Interim Planning Control Manager summarised the planning application (at pages 70 - 74). He reported that the reduction in the size of the dormers on the front and side elevations of the building had since negated previous grounds for refusal of planning permission and that, in turn, the revised application did not in the public interest warrant a further refusal upon material planning considerations.</p> <p>The Vice-Chair disapproved of the application's design. She requested that a condition be added to restrict access to the flat-roofed areas for use as a terrace or balcony to mitigate the potential for overlooking on neighbouring properties.</p> <p>The Interim Planning Control Manager advised that the requested condition was incorporated into the recommendation at condition 4 (at page 74).</p> <p>The Vice-Chair moved the application for approval of planning permission as set out in the report (at pages 74-75).</p> <p>Councillor Mrs H E Loydall disapproved of the application's design. She opined that the proposed building's front and side elevations amounted to an over-intensification of development and impacted detrimentally upon the street-scene. She sought further clarification as to whether the application breached the 45 degree code.</p> <p>The Interim Planning Control Manager advised that there was a negligible</p>	

breach of the code however this did not properly warrant refusal of planning permission.

Councillor Miss A R Bond stated that she agreed with the representations made by the neighbours as set out in the report (at pages 71 - 72).

The Chair seconded the application for approval of planning permission.

**RESOLVED THAT:**

The application be **PERMITTED** planning permission subject to condition(s).

<b>Votes For</b>	6
<b>Votes Against</b>	3
<b>Abstentions</b>	3

**5. Application No. 16/00223/TPO – Hermitage Court, Honeywell Close, Oadby, Leicestershire, LE2 5QQ**

Councillor M H Charlesworth spoke upon the application as an objector.

The Member questioned the classification of the disputed hedgerow *vis-a-vis* tree(s) in question (by analogy to previous planning applications) and the ulterior motives behind the applicant's submission of successive applications. He raised on objection to the approval of the proposed works, citing an inconsistency with the Landscape Proposal No. 1 of the Oadby and Wigston Local Plan, the loss of amenity value and the lack of enforceability of any replacement schedule.

The Arboricultural Officer summarised the application (at pages 76 - 78). He advised that the "trees" in question were planted, maintained and are species of an amenity hedgerow and, therefore, were excluded from the Leicestershire County Council Oadby (The Hermitage) Tree Preservation Order 1962 ("the 1962 TPO"). He reiterated that the recommendation to permit the proposed works alongside a replacement schedule (as conditioned) would mitigate the loss of amenity value.

The Chair warned that, if Members were minded to refuse permission, a successful appeal lodged by the applicant would remove this Committee's control over any replacement schedule.

The Legal Advisor advised that, on a balance of probabilities, any appeal lodged would be successful upon the proper construction of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 given the expert determination of the "trees" in question as any an amenity hedgerow.

Councillor D M Carter noted the importance of the hedgerow's green-screen adding to the amenity of the area. He enquired as to: whether the St Peters (Oadby) Conservation Area (CA) impacted upon the matter; the extent of enforceability of any replacement schedule; and, if agreed, whether this would put the Council in a more favourable position in the prospect of an appeal.

The Arboricultural Officer stated that the CA had no impact. He further reported that that the imminent revocation and replacement of the 1962 TPO with a new TPO area (within the next 18 months) would ensure a replacement schedule was negotiated and implemented.

The Legal Advisor advised that a replacement schedule, or an attempt to negotiate the same, would not be considered negatively by the Planning Inspectorate.

Councillor Miss A R Bonded noted amenity value of the hedgerow and, if Members were minded to grant permission, was hopeful of a replacement schedule.

With reference to the report of '25 leylandii trees' (emphasis added) (at page 77), Councillor Mrs H E Loydall opined the hedgerow bared many substantial tree-like characteristics, were prominent in the street scene and that a negotiation of a replacement schedule was almost impossible should the works be granted permission. She stated that there was no material difference between this and the refusal of previous applications upon the same considerations (*viz* bird droppings).

Councillors Mrs H E Loydall moved for refusal of permission for the works.

Councillor Mrs S B Morris seconded Councillor Mrs H E Loydall's motion.

Councillors R E R Morris agreed with the aforesaid Members. He questioned the ulterior motives of the applicant's previous applications (in relation to this application) and stated that the "trees" in question were hitherto considered as such when previously resolving the same. With reference to condition 2 (at page 78), the Member asked whether the 6-12 ft was to be the size of any replacement at planting.

Councillor R Fahey opined that the application was indicative of the applicant's poor tree management and sought alternative solutions to their outright removal.

The Arboricultural Officer reiterated the hedgerow's technical definition as an "amenity hedgerow" and advised that a minimal pruning of the same was an alternative and viable solution. He confirmed that a minimum of 12 ft was desirable at re-planting to provide for adequate coverage and an effective visual barrier.

The Vice-Chair and Councillor B Dave stated that they properly considered the hedgerow to be a row of trees.

Councillor G S Atwal stated that, if Members were minded to grant permission, a similar replacement ought to be sought and better tree management exercised.

**RESOLVED THAT:**

The application be **REFUSED** permission for the works.

<b>Votes For</b>	10
<b>Votes Against</b>	1
<b>Abstentions</b>	1

Councillor M L Darr left the Chamber at 08:04 pm.

**6. Application No. 16/00239/COU – 3 Victoria Street, Wigston, Leicestershire, LE18 1AJ**

The Interim Planning Control Manager summarised the planning application (at pages 79 - 84). He emphasised that the proposed conversion was to provide for three self-contained flats that were, relatively, small in size and that, in accordance with the National Planning Policy Framework (NPPF), issues arising in respect of local competition for limited available on-street parking provision was not a material planning consideration.

Councillor Mrs H E Loydall enquired as to: whether the application complied with any minimum dwelling-space standards; if an agreement pursuant to the Town and Country Planning Act 1990, section 106 ("s106 agreement") for amenity space was required if the dwelling-flats were sold to families with children; and whether a "car-free" planning condition was achievable to mitigate peripheral concerns surrounding the limited availability on-street parking provision.

The Interim Planning Control Manager advised that minimum dwelling-space standards no longer existed outside the Greater London area and no policy had been hitherto adopted by this Council in terms of the same. He stated that the proposed dwelling-flats would be primarily allocated to the single adult/couple(s) rental market and that that such a "car-free" planning condition would be unenforceable against prospective renters and, or, buyers.

The Member raised a concern as to the health and wellbeing implications of occupants living in increasingly confined living-quarters. She request that a note to the applicant be added for the dwellings-flats to be rented and, or, sold to non-car owners and marketed, accordingly.

The Vice-Chair agreed with Councillor Mrs H E Loydall's comments.

The Chair moved the application for approval of planning permission as set out in the report (at page 84) subject to the addition of a note to the applicant.

Councillor B Dave seconded the application for approval of planning permission.

**RESOLVED THAT:**

- (i) The application be **PERMITTED** planning permission subject to condition(s); and
- (ii) A note to the applicant be added for the dwellings-flats to be rented and, or, sold to non-car owners and marketed, accordingly.

**Votes For**                    9  
**Votes Against**            2  
**Abstentions**                0

**7. Application No. 16/00240/COU – 5 Victoria Street, Wigston, Leicestershire, LE18 1AJ**

The Interim Planning Control Manager summarised the planning application (at pages 85 - 90) and noted that it was identical to application no. 16/00239/COU.

The Vice-Chair noted the same reservations aforementioned.



	<p>Councillor Mrs S Z Haq enquired as to whether a s106 agreement was payable in respect of a single, two-bedroom flat-dwelling.</p> <p>The Interim Planning Control Manager answered negatively.</p> <p>The Chair moved the application for approval of planning permission as set out in the report (at page 90) subject to the addition of a note to the applicant.</p> <p>Councillor R Fahey seconded the application for approval of planning permission.</p> <p><b>RESOLVED THAT:</b></p> <p>(i) The application be <b>PERMITTED</b> planning permission subject to condition(s); and</p> <p>(ii) A note to the applicant be added for the dwellings-flats to be rented and, or, sold to non-car owners and marketed, accordingly.</p> <p><b>Votes For</b>                    9  <b>Votes Against</b>                2  <b>Abstentions</b>                    0</p>	
9.	<p><b><u>BOROUGH TOUR (VERBAL UPDATE)</u></b></p> <p>The Interim Planning Control Manager advised the Committee that the recent cancellation of the Borough Tour scheduled for Friday, 08 July 2016 was to allow an opportunity for Members to provide direction as to what the itinerary should include and, once sought, the Borough Tour was to be organised and re-scheduled for a later date.</p> <p>Members raised a number of suggestions which were duly noted.</p>	

**THE MEETING CLOSED AT 8.21 PM**



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**CHAIR**  
.....

**THURSDAY, 25 AUGUST 2016**  
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# Agenda Item 6



<b>Development Control Committee</b>	<b>Thursday, 25 August 2016</b>	<b>Matter for Information and Decision</b>
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**Title:** **Delegation to Officers of CLUED's and Similar Quasi-Judicial Decisions**

**Author:** **Tony Boswell (Interim Planning Control Manager)**

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## 1. Introduction

At the informal Member training event held on the 26 May 2016, there was a discussion about Certificates of Lawful Use (CLUED's). This followed requests from some Members for clarification of a number of issues that arise in such cases.

The consensus during that discussion appeared to be that in future such decisions should be delegated to Officers. No action was taken on that consensus view pending the resolution of a number of current cases which have already been considered by the Development Control Committee – and then deferred for one of various reasons.

## 2. Recommendations

- 2.1. That in future, all applications for a Certificate of Lawful Use (CLUED), should ordinarily be delegated to the Planning Control and Regeneration Manager acting in consultation with legal advice, where any question of relevant law arises.
- 2.2. That such applications for any Certificate of Lawful Use (CLUED) should not ordinarily give rise to public consultations as would any "ordinary" planning application, other than any specific enquiries to establish or confirm the facts of the case, sufficient to confirm those facts beyond a balance of probabilities.

## 3. Information

- 3.1. The report prepared for the Member Training event on the 26 May 2016 read as follows:

*"The majority of planning decisions are "administrative", that is based upon the merits or de-merits of the case – having regard to planning policy and other material planning considerations, and always after relevant public (and other) consultations.*

*On the other hand, the determination of a lawful use is a "judicial" rather than such an administrative decision. The planning merits or de-merits of the case are entirely irrelevant to the decision, as are any planning policies that might otherwise be relevant. The Council's judicial decision is based entirely upon the documentary evidence submitted and sufficient to justify the case made on a "balance of probabilities" basis. Officers dealing with such a case always do so with a sceptical eye, and look for available evidence to the contrary. In any case of doubt, legal advice may well be sought.*

*In this situation there is clearly no merit in the making of the decision by the DC Committee. The use has either been established beyond a balance of probabilities - or it hasn't. Similarly, there is no merit in any public consultation measures. The response to public consultations may well inform the Council about public views – but those views, however compelling, can never be relevant to the judicial decision being made.*

*As a practical matter such public consultations may only raise false expectations about the outcome of the decision”.*

3.2. DCLG’s published “Planning Practice Guidance “ on this subject includes:

*“The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to co-operate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence.*

*In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant’s version of events less than probable, **there is no good reason to refuse the application, provided the applicant’s evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.*** (emphasis added)

*In the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.*

***There is no statutory requirement to consult third parties including parish councils or neighbours.** It may, however, be reasonable for a local planning authority to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. **Views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question, are irrelevant when determining the application”*** (emphasis added).

**Background Documents:-**  
None.

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Implications	
<b>Financial (CR)</b>	No significant implications.
<b>Legal (AC)</b>	Where any question of relevant law arises, consultation with legal advice shall be sought in respect of CLUED’s.
<b>Risk (TB)</b>	No significant implications.
<b>Equalities (TB)</b>	No significant implications.
	Equality Assessment:- <input type="checkbox"/> Initial Screening <input type="checkbox"/> Full Assessment <input checked="" type="checkbox"/> Not Applicable

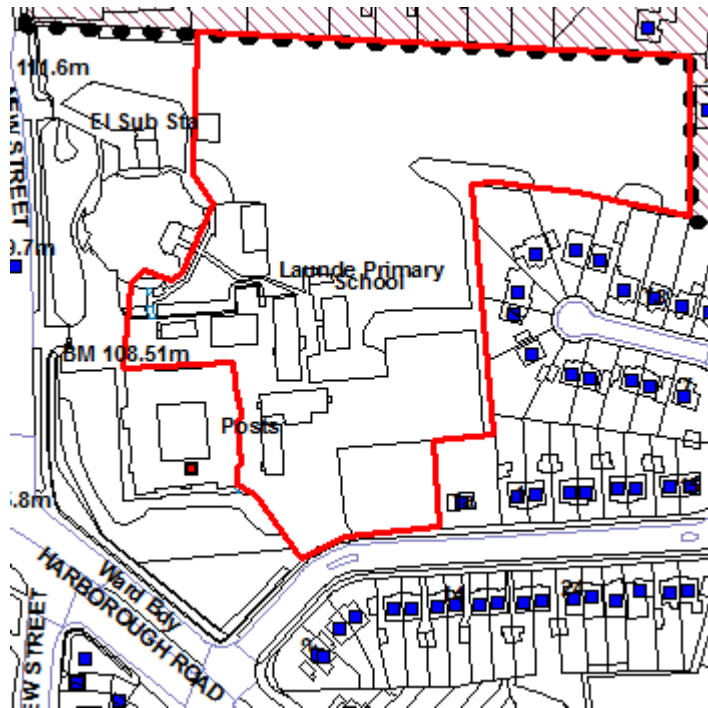
# Agenda Item 7

<b>Application Number</b>	<b>Address</b>
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## Report Items

- |                 |  |
|-----------------|--|
| 1. 16/00175/FUL | Launde Primary School<br>New Street<br>Oadby<br>Leicester<br>Leicestershire<br>LE2 4LJ |
|-----------------|--|

1.	16/00175/FUL	Launde Primary School New Street Oadby Leicester Leicestershire LE2 4LJ
	20 April 2016	Demolition of Horsa and timber framed classroom accommodation. Erection of 2 modular classroom blocks.
	CASE OFFICER	Peter McEvoy



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**Council structure:**

As Leicestershire is not an unitary authority, responsibility for various local government functions is split primarily between Leicestershire County Council and Oadby and Wigston Borough Council. This particular application affects both councils: Oadby and Wigston Borough Council is the local planning authority whilst Leicestershire County Council acts as the local education authority and highways authority.

**Site and Location:**

The applicant is Oadby Launde Primary School.

The application site is a predominantly residential location located on New Street, just north to the A6 dual carriageway on the northern outskirts of Oadby.

The school has been extended in an ad-hoc manner over recent years due to rising pupil numbers and also to improve facilities for the children. According to the applicant's design and access statement, which was submitted in support of the application, there are currently 540 pupils on the school roll with an age range of four to ten years' old. This number is expected to rise in the near future to accommodate year 6 (11 year old) pupils as part of the Local Education Authority's reorganisation of primary school provision. The applicant therefore needs additional teaching facilities.

**Description of proposal:**

The applicant is requesting planning permission to erect two new teaching blocks which would replace the two existing HORSAs hut buildings and two mobile classrooms currently on site. HORSAs buildings are prefabricated structures which were common in schools after the second world war onwards. If the application were approved, there would be an overall net increase of two additional classrooms when compared to the current arrangement. There would be additional parking spaces for teachers with visitor and disabled parking retained in its existing position. The proposal would be partly built over the existing playground but this area would be compensated for the lost space. Some trees would also have to be removed to accommodate the proposal.

The new buildings would be single storey with mono-pitched roofs and a maximum height between 3m to 4m. Its walls would be cream fibre cement and red cedar external cladding with contrasting aluminium grey powdered crittall styled windows. The overall appearance would be of a modern styled building with a colour palette predominately of cream and light brown.

**Relevant Planning History:**

None relevant.

**Consultations:**

- *Sport England*: considers the application to be acceptable and does not wish to raise an objection.
- *Highways (Leicestershire County Council)*: on-site parking is acceptable, although the department would like to see measures to reduce the existing street congestion.

**Representations:**

The Local Planning Authority received a further seventy two comments which reflected the considerable strength of feeling by neighbouring occupiers towards the application. They were almost, but not exclusively, directed towards the proposal's impact on highway safety.

For convenience of the Committee, the majority of these responses may be broadly summarised as:

**Development Control Committee Meeting**  
**25 August 2016**

- *inconsiderate use of the highway* by parents and guardians causing great inconvenience for residents and highway users; for example, double parking, vehicles blocking of the highway and parking on grass verges;
- *traffic generation*: there is a lack of parking around the school and the increased pupil numbers would lead to more car journeys and exacerbate the existing highway problems.

Other points raised were:

- existing highway restrictions need enforcing;
- pollution concerns;
- community tension;
- access for emergency vehicles;
- danger to wheelchair users.

One response was neutral and another was positive, although both respondents were concerned about school traffic.

There were two comments regarding the extension itself:

- it would be too large;
- it would spoil the respondent's view;
- it would be too close to the boundary of neighbours;
- its visual impact;
- it would reduce light to garden and kitchen and reduce the respondent's enjoyment of her property.

### **Relevant Planning Policies:**

National Planning Policy Framework:  
paragraph 72

### Oadby & Wigston Core Strategy:

Core Strategy Policy 4: Sustainable Transport and Accessibility.

Core Strategy Policy 14: Design and Construction.

Core Strategy Policy 16: Community Facilities and Places of Worship.

### **Planning Considerations:**

The Government expects applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. In the National Planning Policy Framework (NPPF), the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing communities. Paragraph 72 of the NPPF states this obligation as:

'The local planning authority is... expected to take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should give great weight to the need to create, expand or alter schools.'

On this basis, there are four considerations for the Committee to consider:

- does the application comply with policy requirements for educational establishments?
- is the application acceptable in terms of visual appearance and residential amenity?
- if so, is the application satisfactory in terms of highway safety?
- can the applicant undertake any measures to reduce the development's impact on nearby roads?

(a) *Policy requirements for education establishments:*

A school is classed as a community facility for the purposes of planning policy.

**Core Strategy Policy 16 (Community Facilities and Places of Worship):**

‘Community facilities and places of worship will be supported where;

- there is good access by pedestrian routes, cycle routes and public transport;
- sufficient car parking is already available or can be provided to meet the needs of the development;
- residential amenity can be protected from any detrimental impact in terms of noise, traffic and hours of use; and
- the external appearance of the building can provide a sense of place and can positively reflect the character and appearance of its surroundings.’

The school is already well served by pedestrian and cycle routes and can be easily accessed by public transport. The development’s impact on highways and residential amenity is assessed in the following sections. The building’s appearance is discussed in the next section.

**Core Strategy Policy 14 (Design and Construction):**

‘The Council will require high quality inclusive design for all new development and major refurbishment in Oadby and Wigston. Proposals for new development and major refurbishment will need to demonstrate how the proposed development:

- respects local character, patterns of development, is sympathetic to its surroundings and should contribute to creating buildings and places that are attractive with their own distinct identity;
- promotes safe and inclusive communities able to be accessible to all members of the community regardless of any disability or background and to encourage sustainable means of travel;
- incorporates measures to minimise waste and energy consumption, conserve water resources and provide for renewable energy generation, in accordance with Core Strategy Policies 8 and 9;
- utilises inclusive design principles including layout, orientation, landscape, streetscape, scale, materials, natural surveillance and sustainable construction; and
- achieves layout and design that is safe, secure and enhances community safety.’

(Only the policy’s sections considered to be relevant for this application are included here.)

The existing HORSAs are no longer in the best condition and may be reasonably considered to be past their useful life. The new classrooms are energy efficient and they would be designed to a much higher standard with a pleasing and modern appearance which would be sensitive to the existing buildings. Pupils would also benefit from a more pleasant learning environment in a safe location beside the existing school buildings. According to the applicant’s design and access statement, the buildings would also comply with the provisions of the Equality Act 2010 and so be easily accessed by less mobile pupils.

The application is therefore considered to conform to policies 14 and 16.

*(b) The development’s impact on neighbouring properties (excluding highway issues):*

Any shadowing generated by the proposal would fall within the school grounds. Due to the large curtilage and open nature of the site, the development would not be considered to be result in an overly dominate feature to nearby properties, especially as the new buildings would be limited to a single storey and the minimum separation distance between the proposal and application site boundary would be approximately 11m. Surrounding houses are already overlooked by the school and so the development would not materially affected occupier’s levels of privacy. Any impact on neighbouring occupiers’ amenity is not considered to be materially significant and so the application is acceptable in terms of residential amenity.

**Development Control Committee Meeting**  
**25 August 2016**



(c) *The development's impact on the surrounding highways:*

As the application is considered to meet the Local Planning Authority's policies on visual and residential amenity, the next point to consider is the proposal's impact on the highway.

**Core Strategy Policy 4 (Sustainable Transport and Accessibility)** states:

'development should be located and designed so as to reduce the need to travel, enhance the safety of pedestrians and road users... In all new built schemes, developers must consider the highways and transport infrastructure requirements needed to support and service the proposed development. There will be a need to demonstrate that adequate capacity currently exists or will be provided through appropriate mitigation that meets necessary infrastructure requirements.

The key question for the Committee is therefore to assess whether the proposal would lead to more (car) traffic within the vicinity, and, if so, whether there is any way to manage the situation in a more effective way. For this reason the Council required the applicant to submit a travel plan as part of the planning application.

(d) *Measures to reduce the development's impact on nearby roads.*

Travel plans can be used in a variety of situations, but in relation to planning, they are prepared by applicants to show how a development can encourage safe and sustainable travelling, manage traffic and reduce congestion within the development's vicinity. There is no single prescribed format for a travel plan, but for this proposal, the applicant has chosen the Modeshift STARS (Sustainable Travel Accreditation and Recognition Scheme) which is a travel plan designed specifically for schools and it is supported by Department of Transport. The primary aim of STARS is to promote non car travel for pupils to improve their health and well being. A successful travel plan would lead to fewer pupils would travel to school by car, easing traffic congestion in the area and so helping to address the concerns expressed by residents.

The final report was not available at the time this report was prepared, but it should be available for the committee meeting. For guidance, a school travel plan should contain the following information at a minimum:

- an introduction and a travel and transport infrastructure section;
- the implementation of an annual travel survey with pupils and staff;
- continually review and set new targets for increasing walking and cycling;
- identify additional travel and transport issues;
- regular updates of an action plan with planned and completed actions; and
- evidence of targeted travel initiatives to mitigate and reduce traffic congestion.

*Respondents' comments:*

A careful distinction must be made as to whether the respondents' concerns can be properly addressed by the planning system.

In relation to the general behaviour of driving and parking, the standard of driving by road users is not a material planning consideration. If the Local Planning Authority did refuse the application purely on these grounds, then the applicant could challenge the decision at appeal and it would be highly likely the appeal would be upheld. Moreover highway safety (including its enforcement) is the responsibility of the local highway authority which is Leicestershire County Council (see above) and Leicestershire Police.

The second concern – traffic generation – however *is* a relevant factor when determining a planning application. The key question for the Committee is therefore to assess whether the proposal would

**Development Control Committee Meeting**  
**25 August 2016**

lead to more (car) traffic within the vicinity, and, if so, whether there is any way to manage the school traffic in a more effective way. It was for this reason the Local Planning Authority required the applicant to submit a travel plan to demonstrate that the applicant's measures are sufficient to tackle the concerns regarding highway safety. Measures to reduce traffic around the school would also tackle other the concerns expressed by the respondents, such as pollution or access for emergency vehicles.

In relation to the other points raised:

- *Disabled access:* The development has been designed around the needs of disabled people. If traffic congestions can be reduced, then it would also benefit disabled highway users.
- *Size of the development:* please refer to the above section on visual amenity;
- *Too close to the boundary:* please refer to the above section on residential amenity;
- *Loss of a view:* control of an outlook over land which is not within a respondent's ownership is not a material planning consideration;
- *Reduction of light:* please refer to the above section on residential amenity. In any event, a right to light is an easement which, if the respondent could show to exist would be enforced by civil action between the applicant and the respondent. It is not a material planning consideration;
- *Visual amenity concerns:* please refer to the above section on visual amenity.

**Summary:**

Overall, the development meets the Council's requirements in relation to residential and visual amenity. Providing the applicant can demonstrate at a minimum that the development does not cause a detrimental impact on highway safety then the officer's recommendation is to approve the application. On the basis of the respondents' comments, any such planning permission should be conditional on the applicant adhering to the requirements of a satisfactory travel plan and to be able to demonstrate that the plan is regularly reviewed and adapted to changing needs.

**Implications Statement:**

Health:	No Significant implications.
Environment:	Potential significant implications unless the applicant adopts suitable mitigation measures.
Community Safety:	No Significant implications.
Human Rights:	The rights of the applicant to develop the property have 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: GRANTS**

Development Control Committee Meeting  
25 August 2016

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 All external materials used in the development shall be in accordance with the submitted plans unless otherwise first agreed in writing with the Local Planning Authority.  
**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 first occupation of the buildings and use hereby permitted, a School Travel Plan shall be undertaken and implemented over time. The specified objective of that School Travel Plan shall be to secure a measurable and consistent reduction in the number of pupils and staff who travel to the School premises through the use of private cars. That School Travel Plan and its implementation may also secure improvements in road safety for pedestrians, cyclists and other road users within the wider locale of the School. Furthermore, that same School Travel Plan may also seek to engender increased self reliance, healthy lifestyle changes and exposure to travel modes other than reliance upon the use of private cars among the School's pupil body and staff. In particular but not exclusively that School Travel Plan shall include:
  - a) A survey and written report of the modes of travel used by all visitors to the School within term time, prior to the commencement of any works in implementation of this planning permission,
  - b) An equivalent annual survey and annual review of any changes to the numbers attending the School by the use of private cars. That annual report shall be reviewed by the School's Head Teacher and Governing body.
  - c) Whatever measures the School's Governing body see fit to implement, in order to bring about a measurable and consistent reduction in the use of private cars for travel to and from the School, below those identified by the survey in item a) above.
  - d) In the event that the annual report in item b) fails to identify a measured reduction in reliance upon the use of private cars for a particular year, the School's Governing body shall propose and implement such additional measures as they see fit in order to deliver that measurable and consistent reduction in reliance upon the use of private cars for journeys to and from the School.

After the annual review by the Head Teacher and Governing body in item b) above, a written copy of that same annual review shall be supplied to the Oadby and Wigston Borough Council's Chief Executive Officer for review and comment.

**Reason:** In order to reduce or eliminate the current levels of road traffic congestion and potential road hazard which routinely arise in proximity to the school entrance, pursuant to Section 4 (paragraph 36 in particular) of the National Planning Policy Framework and Core Strategy Policy 4.

BACKGROUND PAPERS

16/00175/FUL

**Development Control Committee Meeting**  
**25 August 2016**