



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 E 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, 17 NOVEMBER 2016** at **7.00 PM** for the transaction of the business set out in the Agenda below.

Yours faithfully

Council Offices
Wigston
08 November 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 22 September 2016** 1 - 4
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. **Report of the Planning Control Manager** 5 - 50

MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT THE COUNCIL OFFICES, STATION ROAD, WIGSTON ON THURSDAY, 22 SEPTEMBER 2016 COMMENCING AT 7.00 PM

<u>IN ATTENDANCE:</u>		
Chair - Councillor L A Bentley Vice-Chair - Councillor Mrs L M Broadley		
<u>COUNCILLORS (10):</u>		
G S Atwal	R E Fahey	
F S Broadley	D A Gamble	Mrs H E Loydall
D M Carter	J Kaufman	R E R Morris
B Dave	Dr T K Khong	
<u>OFFICERS IN ATTENDANCE (3):</u>		
S J Ball	T Boswell	D Gill
<u>OTHERS IN ATTENDANCE (2):</u>		
B Patel	T Vasey	

Min Ref.	Narrative	Officer Resp.
17.	<p><u>APOLOGIES FOR ABSENCE</u></p> <p>An apology for absence was received from Councillor G A Boulter and Mrs S Z Haq.</p>	
18.	<p><u>APPOINTMENT OF SUBSTITUTES</u></p> <p>None.</p>	
19.	<p><u>DECLARATIONS OF INTEREST</u></p> <p>Councillors G A Gamble and B Dave declared a non-pecuniary interest insofar they had attended a meeting previous to listen to concerns raised by residents of the Oadby Woodlands ward in respect of planning application number 16/00313/FUL.</p> <p>The Members confirmed that they attended the meeting without prejudice and with an open mind.</p>	
20.	<p><u>MINUTES OF THE PREVIOUS MEETING HELD ON 25 AUGUST 2016</u></p> <p>RESOLVED THAT:</p> <p>The minutes of the previous meeting of the Committee held on 25 August 2016 be taken as read, confirmed and signed.</p>	
21.	<p><u>PETITIONS AND DEPUTATIONS</u></p> <p>None.</p>	
22.	<p><u>REPORT OF THE PLANNING CONTROL MANAGER</u></p>	

1. Application No. 16/00313/FUL - 9 Palfreyman Lane, Oadby, Leicestershire, LE2 4UR

Mr Terence Vasey spoke upon the application as an objector.

Mr Vasey stated that, if the application was permitted, the proposed 2.3m high wall ("the boundary wall") and the additional car parking spaces to the property's frontage would reduce the visibility of oncoming traffic along the internal bend of the cul-de-sac and, therefore, posed highway and pedestrian safety implications. He further raised concerns as to the future use of the recently converted 'granny' annex for non-residential purposes (i.e. a hair and beauty salon), the irregular size of annex's windows and their potential for over-looking onto the nearby children's play-area.

Mr Bharat Patel spoke upon the application as an objector.

Mr Patel stated that, if the application was permitted, the proposed boundary wall would cause a loss of outlook and openness on the cul-de-sac. It was said that the difference in materials used and the size of the annex's windows was inconsistent with the street scene. With reference to a diagram tabled at the meeting, he stated that the boundary wall would reduce visibility along the bend by upto 8m and that it was not comparable to the wall adjacent at 6 Palferyman Lane ("No 6").

The Committee gave consideration to the report as set out in the supplementary agenda update (at pages 6 - 13) 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 advised that the Highways Authority did not support the concerns raised in respect of the speakers' suggested risk(s) to highway and pedestrian safety. In an e-mail dated 20 September, it was said that the applicant was agreeable to reduce the height of the boundary wall and use like-for-like materials to the wall adjacent at No 6. In a further e-mail to the dated 21 September, it was said that the applicant clarified that the annex was to be used to accommodate extended family members of limited mobility and not for any other non-residential purpose for which planning permission would otherwise be required.

The Chair moved for the application to be debated by the Committee.

Councillor Mrs H E Loydall seconded the Chair's motion.

Councillor B Dave reiterated the concerns raised as to the reduced visibility for vehicles entering/exiting the application site presented by the proposed boundary wall. He further requested clarification as to what permission was being sought by the applicant (given that the annex's conversion had since been completed), if Officers had confirmed whether the materials used were compliant (as conditioned) and whether the use of the annex for non-residential purposes could be enforced.

The Chair sought advice as to whether delegated authority could be given to Officers to determine the height of the boundary wall and the materials to be used if Members were minded to grant planning permission.

The Legal Advisor advised that the applicant was permitted to erect a 1m fence along the eastern property boundary adjacent to the highway without

the need to obtain planning permission. He advised that the proposed delegation was permissible.

The Interim Planning Control Manager stated any material change in use of the annex for non-residential purposes would require planning permission: if the necessary permission was not obtained, an enforcement notice would be served.

Councillor D A Gamble stated that, if Members were minded to grant planning permission, the proposed boundary wall would pose a heightened risk to the pedestrian safety of children who oft-used the cul-de-sac as a cut-through to the Woodland Grange Primary School on Beaufort Way, Oadby. The Member further enquired as to whether all the building works had been completed at the site.

The Interim Planning Control Manager advised that all exterior building works had been completed to the exception of the boundary wall.

Councillor D A Gamble moved to amend the recommendation for a permitted wall of 1m in height.

Councillor R Fahey seconded Councillor D A Gamble's amendment.

UNANIMOUSLY RESOLVED THAT:

The recommendation be amended for a permitted wall of 1 meter in height.

The Vice Chair enquired as to whether there existed any clause in the deeds to the properties on Palfreyman Lane restricting building works on the properties' frontages and if the use of the annex of for a non-residual purpose could be conditioned.

The Interim Planning Control Manager reported that no clause existed.

The Legal Advisor advised that other, more effective legal and regulatory mechanisms (viz. enforcement notices) were available to regulate and enforce upon the Member's area of concern if necessary.

Councillor D M Carter welcomed the resolved amendment. He further sought clarification as to whether the materials used in the annex's conversation were compliant.

The Interim Planning Control Manager advised that the brick materials used were similar to those of the building. He stated that although the grey porch-frame was dissimilar to the existing windows, this did not warrant enforcement action.

Councillor Mrs H E Loydall emphasised the this Committee's decision upon the proposed boundary wall ought to be framed upon this planning policy as opposed to unsubstantiated claims raised by the speakers. She further enquired as to whether the planning permission sought was retrospective permission and if Building Control has been involved in ensuring the materials used were compliant.

The Interim Planning Control Manager advised that as the application was called-in by a Member some five weeks previous, it could not be properly considered as a retrospective planning application. He reported that the

<p>applicant's architects had self-certified that materials used were compliant and therefore Building Control's involvement was unnecessary. He advised that if Members were minded to grant planning permission with the amendment of a permitted wall of 1m in height, this would adequately address the concerns regarding highway and pedestrian safety.</p> <p>The Member requested that assurances be sought from Building Control on the same.</p> <p>UNANIMOUSLY RESOLVED THAT:</p> <p>The application be PERMITTED planning permission, subject to condition(s), with a permitted wall of 1 meter in height.</p>	
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THE MEETING CLOSED AT 8.04 PM



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CHAIR
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THURSDAY, 17 NOVEMBER 2016
.....

Application Number

Address

Report Items

1. 16/00308/FUL
55 - 57 Queens Drive
Wigston
Leicestershire
LE18 2DG

2. 16/00365/VAC
Brocks Hill Visitor Centre And Country Park
Washbrook Lane
Oadby
Leicestershire
LE2 5JJ

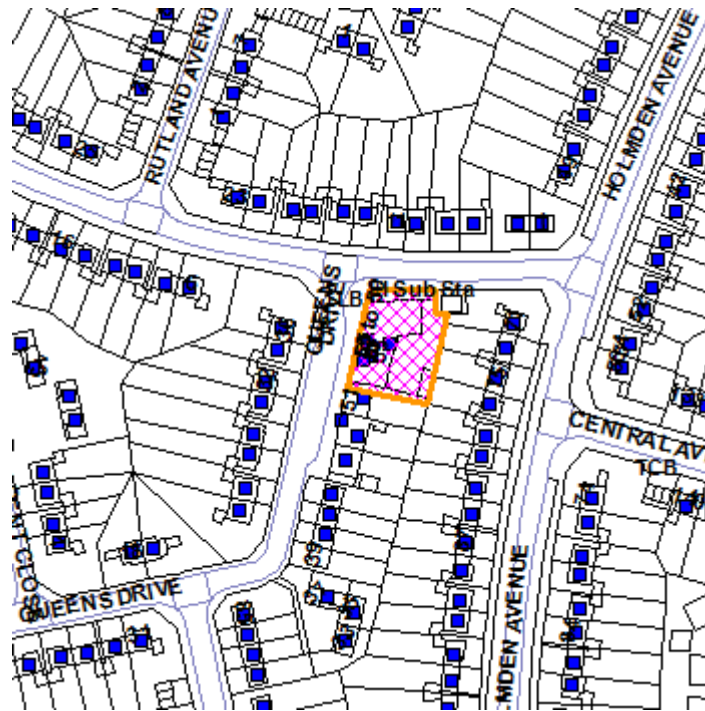
3. 16/00366/CLP
38 Redruth Avenue
Wigston
Leicestershire
LE18 2JF

4. 16/00392/FUL
10 Durnford Road
Wigston
Leicestershire
LE18 2RG

5. 16/00393/FUL
12 Durnford Road
Wigston
Leicestershire
LE18 2RG

6. 16/00295/FUL
Meadow Hill
Cooks Lane
Wigston
LE18 3TA

1.	16/00308/FUL	55 - 57 Queens Drive Wigston Leicestershire LE18 2DG
	7 September 2016	Demolition of existing retail and storage premises and redevelopment with 15 No. 1 and 2 bedroom flats, a new A5 unit and associated external works.
	CASE OFFICER	Jon Imber



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Site and Location

The application site consists of a single storey commercial property at 55 to 57 Queens Drive, Wigston. The building is subdivided into three retail units. One of these units is currently let, which is in use as a hot food takeaway. The remainder of the building is currently used for storage.

The site occupies a prominent position at the junction of Queens Drive and West Avenue. Surrounding land uses include a parade of shops with flats above to the south, and residential properties to the north, east and west.

The building on the site is of red brick construction with a flat roof. Although surrounding built form is predominantly two storeys high, the building on the site is single storey only.

Boundary treatments include a blockwork wall to the south, and a concrete retaining wall with timber fencing on top to the east. There is no formal boundary treatment along the northern and western boundaries.

The site is relatively flat. It sits approximately one metre below the level of the residential properties to the east.

The site is accessed off West Avenue. A gated entrance provides access to a rear yard, which provides parking and servicing space for the units.

There are no specific designations affecting the property identified within either the Saved Local Plan or the Core Strategy.

Description of proposal

The application proposes the demolition of the existing commercial units and the erection of a block of 15 flats and a single A5 unit together with associated parking and storage facilities.

The proposed block of flats fronts Queens Drive and West Avenue. The building is predominantly three storeys high, with a two storey element along the Queens Drive frontage. It is arranged in broadly an 'L' shape and has a width of approximately 31.5 metres along the West Street frontage, a width of approximately 24.5 metres along the West Avenue frontage, a depth of approximately 10 metres and a maximum height of approximately 9.8 metres.

The proposed building contains a mixture of one bedroom and two bedroom flats. Eight one bedroom flats are proposed, with floor areas varying from approximately 44m² to 54m². The seven two bedroom flats vary between approximately 61m² and 73m². The A5 unit has a floor area of approximately 63m². It is situated on the Queens Drive frontage adjacent to the adjoining parade of shops.

The proposals include the provision of car parking spaces to the rear of the building. The car park is accessed from West Avenue via an underpass through the building. It contains a total of 15 car parking spaces. A bin store and cycle storage is also to be provided within the rear yard.

The statutory determination period for the applications expired on the 6th October 2016, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

13/00107/FUL: Demolition of existing retail and storage premises and redevelopment with 15No. flats, a new A5 unit (Hot Food Takeaway) and associated external works – Refused 10th October 2014

The above application was refused on the grounds that a Section 106 agreement was not forthcoming. An informative to the decision made it clear that a resubmission accompanied by a Section 106 agreement was likely to be viewed more positively.

Consultations

The Highway Authority – It is unlikely that the proposal would increase the number of vehicles parking within the highway therefore the highway authority could not afford a reason for refusal on highway grounds. Conditions are recommended regarding the width of any private drive, the provision of parking and turning facilities, surfacing of the access drive, provision of drainage, closure of the existing access, no encroachment onto the highway and the provision of cycle storage facilities.

Leicestershire County Council (Contributions Team) – Requests a contribution of £330 towards local libraries. Does not require an education contribution or a contribution towards civic amenity sites.

Representations

Neighbours have been informed and a notices placed adjacent to the site. The proposals have also been publicised in the local press. One letter of representation have been received at the time of writing this report.

The date for the receipt of comments expired on the 6th October 2016.

The reasons for objection can be summarised as follows: -

- The bin store is adjacent to our property and will encourage scavenging animals
- The exterior stairs will be intrusive and invasive
- The car park could attract antisocial behaviour
- The building is too large
- Loss of conifers will remove screening
- There is nowhere in the area for children to play
- The area is already congested
- The site is currently untidy
- Devaluation of property

Relevant Planning Policies

National Planning Policy Framework

In particular Sections 6, 7 and 12

Oadby & Wigston Core Strategy

Core Strategy Policy 1: Spatial Strategy

Core Strategy Policy 4: Sustainable Transport & Accessibility

Core Strategy Policy 14: Design and Construction

Core Strategy Policy 15: Landscape and Character

Oadby and Wigston Local Plan

Landscape Proposal 1: Design of new development subject to criteria.

Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document

Planning Considerations

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

- The principle of development in this location
- The impact of the proposal upon the character and appearance of the area
- The impact of the proposal on neighbouring residential properties.
- The impact of the proposal upon the safe and efficient use of the highway network

The principle of development in this location

The replacement of the existing A5 unit is considered acceptable in principle.

One of the core principles of the National Planning Policy Framework is that planning should proactively drive and support sustainable economic development to deliver the homes that the country needs.

Paragraph 14 of the NPPF establishes a presumption in favour of sustainable development. It explains that in the context of decision taking, this means approving proposals that accord with the development plan without delay. Paragraph 49 of the NPPF reaffirms that housing applications should be viewed in accordance with the presumption in favour of sustainable development.

Core Strategy Policy 1 prioritises development within the Leicester Principal Urban Area to regenerate the centres of Oadby, Wigston, South Wigston and their associated communities.

The application proposes the erection of new residential properties upon previously developed land within in the Leicester Principal Urban area. The site lies within an area containing a mixture of residential and commercial properties. It is sustainably located within walking or cycling distance of a range of services and facilities, and employment opportunities. The proposal would contribute towards the Government's key aim of delivering new housing in a sustainable location as set out in Paragraph 17 of the NPPF. In accordance with Core Strategy Policy 1, and the presumption in favour of sustainable development set out in Paragraphs 14 and 49 of the NPPF, the broad principle of residential development on the site is therefore considered acceptable.

The impact of the proposal upon the character and appearance of the area

Policy 14 of the Core Strategy relates to design and construction. It requires that new development respects local character and patterns of development, is sympathetic to its surroundings, and contributes towards creating buildings and places that are attractive with their own distinct identity.

Policy 15 of the Core Strategy requires new development to reflect the prevailing quality, character and features of the landscape and townscape.

Policy LP1 of the Saved Local Plan requires that new development respects its landscape and townscape context.

Surrounding buildings are predominantly two storeys in height, creating a fairly uniform character.

The existing building to be demolished occupies a prominent corner position. Unlike the prevailing character of the area, it is single storey and has a horizontal rather than vertical emphasis. Its flat roof is at odds with the pitched roofs characteristic of nearby dwellings. The existing building on the site is of little visual merit and presents a somewhat underwhelming feature relative to its prominent position within the streetscene.

The proposed three storey block of flats is significantly taller than the building which it is to replace, and is also taller than neighbouring buildings, although to a lesser extent. It would therefore present a much more prominent feature in the streetscene. However, the building responds well to its corner plot, and would act as a landmark at what is a key junction in visual terms on this relatively well-used thoroughfare. Its prominence relative to the existing building and the backcloth of two storey dwellings is therefore considered a positive rather than a negative aspect of its overall design.

Paragraph 60 of the NPPF makes it clear that planning decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. However, Paragraph 60 does state that it is proper to seek to promote or reinforce local distinctiveness.

As set out above, the building would appear distinctive within this area of fairly uniform character. Its design is original and innovative, and responds well to the characteristics of the site. The building provides active frontages to Queens Drive and West Avenue, and provides a focal three storey block finished in a contrasting material at its north-western corner which presents a strong landmark feature at their junction.

In summary, although the building is larger and more prominent than that which it replaces, it responds far better to the characteristics of the site and exhibits a far higher standard of design. It would be seen as a distinctive landmark feature at the junction of Queens Drive and West Avenue and would enhance the character and appearance of its surroundings.

The impact of the proposal on neighbouring residential properties.

Section 4 of the Council's Residential Development Supplementary Planning Document seeks to ensure that new development is designed so that it does not unacceptably affect the amenities enjoyed by the occupiers of neighbouring dwellings, particularly through loss of daylight or privacy.

The application site lies within a predominantly residential area. However, there is a parade of retail units and a hairdressing salon immediately to the south.

The proposals are over 21 metres from the front elevations of the dwellings on the opposite sides of Queens Drive and West Avenue. This separation is sufficient to avoid causing an unacceptable reduction in daylight or privacy, particularly when taking into account the intervening public highway.

The flank windows to the first floor flat above the hairdressing salon to the south do not appear to constitute principal windows. The entrance door on the side elevation is to be relocated onto the frontage.

The dwellings to the west of the site are set at a slightly higher level than the proposed building. This, coupled with the distance between the existing dwellings and the proposed building is ample to avoid any unacceptable loss of light or privacy. It is, however, recommended that the doorway in the western gable of the proposed building be obscure glazed to avoid overlooking the rear garden of the dwelling to the west.

Whilst the provision of new residential units on the site could lead to a slight increase in noise and disturbance, this would remain commensurate with that reasonably expected from residential properties, and would not be inherently incompatible with established residential uses in the area.

The replacement of the existing A5 unit will not materially increase noise or disturbance.

The impact of the proposal upon the safe and efficient use of the highway network

Policy 4 of the Core Strategy states that development should be designed to enhance the safety of pedestrians and road users.

Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The County Council's parking standards require a minimum provision of 1 ½ spaces per dwelling with 2 bedrooms or less. This gives a total requirement of 23 parking spaces associated with the development. The proposals provide 15 spaces and as such fall short of that requirement.

However, the application site is sustainably located. It is situated adjacent to a mini supermarket and lies within walking distance of a range of employment units. Furthermore, the site lies immediately adjacent to a bus stop served by numerous and frequent services. The location of the site is therefore inherently sustainable.

It is considered that given the accessibility of the site to services, facilities and sustainable travel options via non-car modes, the shortfall in parking provision would not lead to severe impacts and in accordance with Paragraph 32 of the NPPF resisting these proposals on the grounds of insufficient off-street parking provision could not therefore be substantiated.

Other Issues

Paragraph 118 of the NPPF states that if significant harm to biodiversity cannot be avoided, adequately mitigated or as a last resort compensated for, planning permission should be refused.

The building to be demolished is a flat roofed structure in an urban area. It is not suitable habitat for bats and on that basis it is not considered likely that the proposals would harm protected species or their habitat.

The Oadby and Wigston Developer Contributions Supplementary Planning Document sets out the level of developer contributions required to mitigate against the impact of development.

The Developer Contributions SPD requires 20% of all dwellings on sites in Wigston to be affordable housing. This equates to three of the fifteen flats. It also requires a contribution towards open space, sports and recreation provision, which in this instance works out at £16,485.

The County Council requires £330 towards library provision. The development falls below the threshold above which an education contribution is required, and since the local civic amenity site has capacity no contribution is requested in that regard either.

These contributions are all required to offset the impact of the proposed development, and accord with the Developer Contributions SPD.

Conclusion

The proposal involves new housing on of previously developed land which is sustainably located within the Leicester Principal Urban Area. The principle of the development is therefore established by Core Strategy Policy 1 and the National Planning Policy Framework.

The proposals would not unacceptably affect the amenities enjoyed by the occupiers of nearby dwelling and neither would they prejudice the safe or efficient use of the highway network.

Although the building is larger and more prominent than that which it replaces, it responds far better to the characteristics of the site and exhibits a far higher standard of design. It would be seen as a distinctive landmark feature at the junction of Queens Drive and West Avenue and would enhance the character and appearance of its surroundings.

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: GRANTS

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 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.
- 3 No development shall take place until samples or details of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details.
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 The first floor doorway in the north elevation of Plot 5 shall be permanently glazed in obscure glass, and the door shall not be replaced without the prior written consent of the Local Planning Authority.
Reason: To safeguard the privacy of occupiers of the adjoining property and in accordance with Landscape Proposal 1 and Housing Proposal 17 of the Oadby and Wigston Local Plan.
- 5 The cycle storage facilities shown on the approved plans shall be provided prior to the first occupation of any of the flats and shall thereafter be retained for the life of the development.
Reason: To promote sustainable modes of travel as an alternative to the private car in accordance with Core Strategy Policy 4.
- 6 No development shall take place until scheme of landscaping, fencing and walling has been submitted to and agreed 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.
- 7 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 any of the dwellings 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.
- 8 The scheme of walling and fencing approved as part of the detailed scheme of boundary treatment shall be completed prior to the first occupation of the dwelling to which the fencing/walling relates.
Reason: To safeguard the visual amenities of the area, the amenities of the future occupiers of the dwellings, and the occupiers of adjoining properties 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.

- 9 Prior to the first occupation of any of the dwellings 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.
- 10 No development shall take place until full details of the reinstatement works of the footway following the closure of the existing access shall be submitted to and approved in writing by the Local Planning Authority. The agreed reinstatement works shall be carried out in accordance with the approved details prior to the first occupation of any of the dwellings hereby granted permission.
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.
- 11 No development shall take place until details of secure cycle parking provision have been submitted to and approved in writing by the Local Planning Authority. The approved cycle parking provision 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.
- 12 No development shall take place until a scheme for the disposal of foul sewage and surface water drainage for the site (based on sustainable drainage principles) has been 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 in accordance with the aims and objectives of the National Planning Policy Framework.
- 13 No development shall take place until full details of a mechanical ventilation system for the kitchen of the A5 unit hereby approved (including details of the siting, design and finish of all external elements) has been submitted to and approved in writing by the Local Planning Authority and the details so approved shall be implemented in full prior to the first use of the premises as a takeaway and unless otherwise first agreed in writing by the Local Planning Authority be maintained as such for the life of the development.
Reason: In the interests of the visual amenity of the area 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.
- 14 The A5 unit hereby permitted shall not be open to customers outside the following times:
Monday to Friday 08:00 and 23:00
Saturdays 09:00 and 23:00
Sundays and Bank Holidays 10:00 and 23:00
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.
- 15 No development shall take place until details of all existing and proposed slab and site levels (including any re-grading proposed to the site) have been submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out in accordance with those details so approved.

Reason: To ensure that the development does not adversely affect the amenities of adjoining properties and the character or appearance of the area 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.

2.	16/00365/VAC	Brocks Hill Visitor Centre And Country Park Washbrook Lane Oadby Leicestershire LE2 5JJ
	8 September 2016	Section 73 application to remove condition 3 of application reference 81/0697/8 relating to gated access to school to allow public access to Brocks Hill Country Park & separate gate to school (gate height 1.5m and width 1.2m).
	CASE OFFICER	Peter McEvoy



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Site and Location:

The applicant is Brocks Hill Visitor Centre and Country Park, a Council department.

The site is the footpath which provides access from Tendring Drive (a cul de sac) in Wigston to Glenmere Community Primary School in Estoril Avenue. At the moment, access to the footpath is restricted by chain link fencing and a gate situated at the end of Tendring Drive's hammerhead. This gate is locked outside of school hours which means that the footpath can only be accessed when the school is open and not, for example, during the evenings or weekends. Along the footpath's eastern side there are open fields and Brocks Hill Visitor Centre, and on the opposite western side, the rear gardens of residential properties. The footpath is unlit.

Description of proposal:

On 6 July 1981, the LPA granted conditional planning permission for:

'the construction of a 2m (6½') wide footpath with tarmac surface and a 2m (6½') high chain link fence along the northern and eastern sides of the path, between Tendring Drive and Glenmere Primary School, Estoril Avenue, Wigston' (reference 81/0697/8).

The third condition attached to the permission stipulated that:

'a gate shall be provided at the Tendring Drive entrance and shall be locked at all times when not needed for school purposes'

The reason for imposing that condition was:

'to ensure that the footpath will remain private and used only by children attending Glenmere School, in the interests of local residents.'

The applicant has made a section 73 application (an application under the Town and Country Planning Act, s73 to vary or remove conditions associated with a planning permission) to relocate the gate from its current position to a point further north along the footpath, a distance of approximately 220m away. If the application was approved, then the southern part of the path, behind the residential properties in Tendring Drive, Canvey Close, Mere Road, Grasmere Road and Eastmere Road, would be permanently open.

The applicant states that the key reasons for making the planning application are:

- to remove the annual cost to use the permissive path, along the side of the field;
- to provide a more appropriate surface for residents and visitors to Brocks Hill Country Park, as currently the surface is uneven and during poor weather it is extremely muddy.

Consultation periods:

Site notice – dated 6 October 2016 with a deadline for representations by 27 October 2016.

Notification letters – dated 12 September 2016 and 23 September 2016 with a deadline for representations by 3 October 2016 and 14 October 2016 respectively.

The LPA intends to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History:

81/0697/8: see above for further details.

12/00185/VAC: Section 73 application to remove condition 3 of application reference 81/0697/8 relating to gated access to school to allow public access to Brocks Hill Country Park & separate gate to school (withdrawn on 9 October 2012).

Consultations:

PCSO Karim Baladi, Leicestershire Police:

- comments to follow.

Kevin Brown, Nottinghamshire Police's Force Architectural Liaison Officer, on behalf of Leicestershire Police:

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- the top of the gate has been coated with anti climb paint indicated that some unlawful access by climbing may have occurred in the past;
- would not support a footpath which runs to the side or rear of homes where there is no overlooking as these are known to increase the potential for crime and disorder in these areas;
- recommends that the gate is kept at its current location and for the footpath to retain the current minimal usage;
- crime in this area is quite low at present, but he does not have access to the issues of any disorder in this area.

Representations:

Neighbours have been informed and accordance with Council practice, two notices were placed on site. At the time this report was written, the LPA received the following representations:

- two in support and
- six objections.

1 Representations supporting the application:

1.1 Mr and Mrs GM Pratt (13 Eastmere Road):

- the proposed new gate would be approximately half way along our fence and we would be delighted to have access to the park.

1.2 Mr P Merry (Glenmere Community Primary School, two sets of comments):

- a muddy pathway runs alongside the tarmac pathway into the park already exists. Allowing the community to use the current school path would improve this route for all;
- an outstanding school might not remain outstanding if it has to budget for expenditure which doesn't in any way benefit its pupils;
- it would allow the local community the use of the path;
- the school gates would be relocated to ensure that the school grounds are secure and safe
- the governors and trustees support the proposal as it would mean the school is no longer responsible for maintaining an extremely long fenced pathway, which would allow more of the school's budget to be spent on the children's education.

2 Representations objecting to the application:

2.1 Mr T Reece (5 Eastere Road):

- the police were against a similar previous application because of security and patrol considerations;
- when he moved into his property a very good point in its favour was the double fenced security aspect during the hours of darkness. The alterations will reduce the security by fifty percent which is a cause for concern;
- if the proposal went ahead, the pathway would be unlocked and open to everyone twenty four hours a day which would lead to it being used as a cycle path to Oadby. There would be risk of cyclists using the footpath at the same time parents are walking their very young children to school;
- dog walkers will use the path, which will lead to dog fouling as not all dog owners clean up their pets' mess.

2.2 M E Coles (9 Coltsfoot Way, Broughton Astley):

- to allow the school path to be used as a public access to Brocks Hill would put the safety of the children, parents and staff at great risk;
- the changes would leave them vulnerable whilst walking along a long unprotected path and the school will greatly increase its risks of intruders, vandalism and burglary;
- potential attacks from freely running dogs;
- dogs already foul the area outside the field and school gate;
- littering dropped in the area which will migrate down the length of the path and possibly lead to more rubbish being thrown in to the fields and residents' gardens;

- there would be more general anti-social behaviour (such as motorcyclists, vandalism, underage drinking and drug taking making the whole area unsafe for the school children who use the path and for nearby residents as well). Residents already call the police for assistance.

2.3 BT and JM Cattell (5 Canvey Close):

- opening the pathway to all will leave children vulnerable to meeting dogs, cyclists and other traffic in a restricted and confined area with no means of avoiding, or indeed escaping a possible dangerous confrontation;
- general litter and dog mess are further areas of great concern;
- their property is adjacent to the footpath and the two existing chain link fences offer some security and protection from individuals using the field, even throughout the night;
- they have already witnessed occasions where youths have climbed the fences and ran down their drive;
- general anti-social behaviour is already a problem so opening the footpath would cause more traffic, disruption and just exacerbate the problem;
- concerns over the actual position where the gate is likely to be situated in a muddy bog.

2.4 D A Burns (177 Mere Road):

- the present arrangement provides residents with the security of two chain link barriers between the public and nearby properties;
- an open footpath would provide a useful rat run for burglars, nuisance creation and general anti-social behaviour, including vandalism to school property.

2.5 M D Sheppards (3 Eastmere Road):

- the opened footpath would become a rat run and during dark winter nights it will become a gathering place for the young making it unsafe for people to use at night;
- it compromise the security of his property;
- who would be responsible for clearing up the dog fouling before children walk to and from school;
- at the rear of his property there is probably one of the oldest hawthorn field hedges left in Wigston which is a haven for wildlife which would only suffer from the disturbance of people;
- gangs of youths using the path, gangs of youths congregating at the double fenced security.

2.6 EG and JA Coles (8 Tendring Drive):

- the proposal would put children's safety at high risk;
- the school would be less protected at nights;
- children would be walking the same path as dogs which could lead to unprovoked attacks;
- dog fouling and littering (this could also end up in residents' gardens if the path is opened up);
- the path would be plagued with cyclists, skateboards and mini motorbikes;
- gangs of youths at night and weekends already congregate at the top of Tendring Drive which will only get worse if the path is opened;
- an open path will leave the properties that side up to and bank onto the path very vulnerable to break ins and vandalism;
- the increase in anti-social behaviour will make the whole area unsafe for the school children;
- the path slopes down towards the school and it bends about halfway down which does not allow a clear line of sight from either end.

The LPA forwarded copies of the respondents' comments to the applicant for further consideration, but the applicant would like to proceed with the proposal without making any amendments.

Relevant Planning Policies:

National Planning Policy Framework:

Paragraphs 58 and 69:

'create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.'

Oadby & Wigston Core Strategy:

Core Strategy Policy 14: Sustainable Construction and Design

'Proposals for new development and major refurbishment will need to demonstrate how the proposed development... achieves layout and design that is safe, secure and enhances community safety.'

Oadby and Wigston Local Plan:

Landscape Proposal 1: Design of new development subject to criteria.

'Development will be permitted provided... the layout, design and landscaping features will discourage crime;

Supplementary Planning Document/Other Guidance:

Secured by Design (Homes 2016, version 1 – footpath design, paragraphs 8.6-8.11):

'Routes for pedestrians, cyclists and vehicles should be integrated to provide a network of supervised areas to reduce crime and anti-social behaviour.

'Public footpaths should not run to the rear of, and provide access to gardens, rear yards or dwellings as these have been proven to generate crime.

'Where a segregated footpath is unavoidable... designers should... ensure that it is:

- *as straight as possible;*
- *wide (at least 3m) to allow persons with wheelchairs, prams, or mobility scooters to pass each other;*
- *well lit;*
- *devoid of potential hiding places and overlooked by surrounding buildings and activities;*
- *well maintained so as to enable natural surveillance along the path and its borders.*

'Where isolated footpaths are unavoidable, and where space permits, they should be at least 3 metres wide (to allow people to pass without infringing personal space and to accommodate passing wheelchairs, cycles and mobility vehicles).'

Planning Considerations:

The Committee is asked to consider is whether the proposal would be acceptable in terms of visual and residential amenity, especially in terms of whether it would encourage anti social behaviour.

Visual amenity:

As the application is restricted to the relocation of the existing gate, it would have a minimal impact on the street scene and the visual amenity of the area. The proposal is therefore acceptable in terms of visual amenity.

Residential amenity:

Again due to the application's modest nature, no material impact on the usual aspects of residential amenity (such as shadowing or over dominance) would be expected; however several respondents have concerns about whether the opening of the southern part of the footpath could encourage anti social behaviour.

The LPA is obliged by the NPPF and its own policies (Core Strategy 14 and saved local plan policy Landscape Proposal 1) to consider whether an application would have a detrimental impact on the safety and security of the area and whether this impact would be sufficient to justify refusal. The guidance in the Secured by Design initiative is important, but the national and local planning policies take precedence.

Although the Force Architectural Liaison Officer's preference is for the gate to remain where it is currently positioned, he also mentions that the incidence of crime in the area is low. The LPA has also sought the views of a local PCSO for further information about potential anti-social behaviour in the area, and it is hoped that this information will be available at the time the Committee meets.

The following respondents' comments are not material planning considerations:

- dog fouling;
- littering;
- potential personal injury from free ranging dogs;
- wildlife disturbance to a resident's hedgerow fence;
- extra money for the school if it is no longer responsible for the path's maintenance.

Conclusion:

The recommendation is therefore to approve the application, subject to the Committee being satisfied that the proposal would not lead to a material increase in anti-social activity.

Implications Statement:

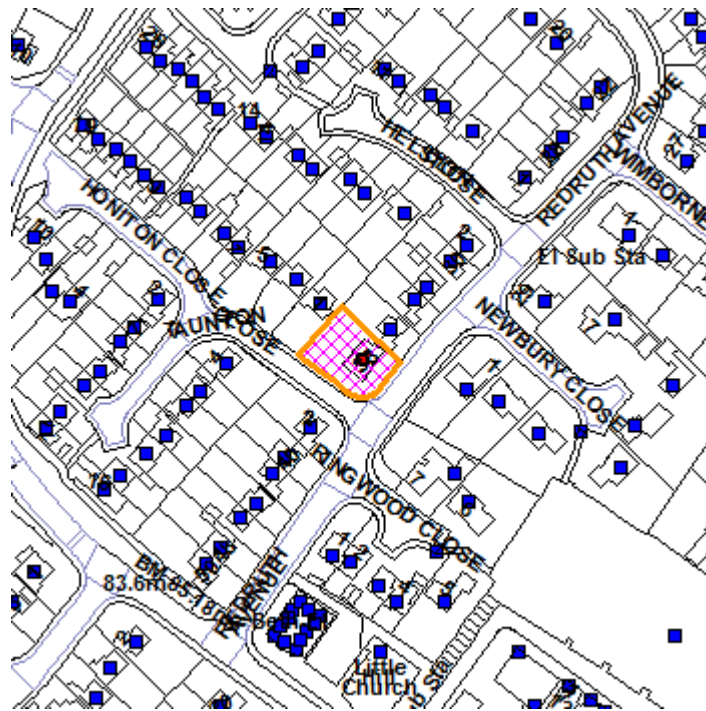
Health:	No significant implications.
Environment:	No significant implications.
Community Safety:	There may be possible implications.
Human Rights:	The rights of the applicant to proceed with this application must be balanced against the rights of occupiers adjoining the footpath.
Equal Opportunities:	No significant implications.
Risk Assessment:	No significant implications.
Value for Money:	No significant implications.
Equalities:	No significant implications.
Legal:	No significant implications.

RECOMMENDATION: GRANTS

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.

3.	16/00366/CLP	38 Redruth Avenue Wigston Leicestershire LE18 2JF
	26 August 2016	Class C3 (b) use of dwelling house for social work housing up to 3 children age group 8-18 with emotional, behavioural difficulties - (Updated information)
	CASE OFFICER	Mike Carr



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Site and Location

The application site is a modern, extended, detached 5 bedroom dwellinghouse located at the junction of Redruth Avenue with Honiton Close within the Little Hill Estate area of Wigston. The area is predominantly residential in character.

Description of proposal

The application is not a planning application to which normal planning policy considerations apply. It is an application for a certificate of lawfulness; to determine if the change of use proposed, as set out above, would amount to development requiring planning permission. This is a legal determination based on whether or not the use would be materially different in planning terms to the existing use as a residential dwellinghouse. It is important to note that the more usual considerations of desirability of a development, planning policy, planning harm, public and neighbour amenity, strength of public feeling, and highways safety considerations do not apply to this type of application.

The statutory determination period for this application expired on the 21 October 2016 and the applicant has agreed an extension until 30 November 2016. It is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

16/00151/CLP : Certificate of Lawfulness (proposed) for Class C3(b) use of dwelling house for social work housing up to 4 children age group 8-17 with learning disabilities plus 2 carers plus conversion of garage to living accommodation – Granted 3rd May 2016

Consultations

These are not relevant to this type of application.

Representations

Neighbours have been informed and a site notice placed with letters of representation being received from 22 nearby properties. The representations relate to the desirability of the use, in the way that comments about a planning application might be made. As none of the representations comment on the lawfulness of the proposal, they cannot be taken into consideration in reaching a decision on the application.

The date for the receipt of comments has now expired.

Relevant Planning Policies

For the reasons previously stated, planning policy considerations are not relevant to the consideration of this kind of application.

Planning Considerations

This report seeks to determine whether 38 Redruth Avenue, currently in use as a domestic dwelling, can be lawfully used as a care home for up to 3 children, aged between 8-18, with emotional, behavioural difficulties. The fourth and fifth bedrooms would be available for care staff who would stay at the premises and sleep there, but would live elsewhere. The proposal would be considered lawful if no change of use between Use Classes (and therefore no development) would occur, or if a change of Use Class did occur, then the way that the building would operate would be so similar to a dwellinghouse use as not to amount to be “materially” different.

The main issues to consider in the determination of this application are the provisions of the Use Classes Order, the General Permitted Development Order, Case Law and relevant appeal decisions elsewhere. It is important to note that where two uses would fall within the same Class the Use Classes Order classification indicates when planning permission is not required because the use is not materially different and so does not amount to development. The Order does not indicate that all changes from one Use Class to another necessarily result in a material change of use (development).

The starting point is to examine whether the use can be considered to fall under Class C3 (dwellinghouses) or C2 (residential institutions).

The Use Classes Order defines a C3 (dwellinghouse) use as:

Use as a dwellinghouse (whether or not as a sole or main residence) —

(a) by a single person or by people to be regarded as forming a single household;

(b) by not more than 6 residents living together as a single household where care is provided for residents; or

(c) by not more than 6 residents living together as a single household where no care is provided to residents (other than a use within Class C4 – Houses in multiple occupation).

The key aspects are that the unit needs to be occupied by persons living together as a single household, irrespective of care.

A C2 (Residential Institution) use is defined as:

Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).

Use as a hospital or nursing home.

Use as a residential school, college or training centre.

Case law in *North Devon District Council v The First Secretary of State* [2003] J.P.L. 1191, held that “the concept of living together as a household means that, as I have put it, a proper functioning household must exist and, in the context of a case such as this, that must mean that the children and a carer must reside in the premises”. He went on to observe that minors cannot form a household in the absence of adult members.

An example of a comparable C3 use would be that of the home of foster carers, where the adults forming a household are joined by children put into their care.

In the current proposal, the 3 children would live in the property and they would have 24 hour non-resident care, provided by a range of care staff who would work on a shift pattern, including sleeping at the property.

As the carers would not live at the property and would regularly be replaced by others working at the property. As such they would not form part of a household. The children cannot form a household without resident adults and therefore the proposed use would not fall within Class C3. If the use is not within C3, it would be in Class C2.

Materiality of change

As in North Devon, differentiation between use classes is indicative but not conclusive of a material change of use. An assessment of the materiality of the change has to be made. (Changes of use will only amount to development requiring planning permission where those changes are “material”). The factors that can be considered in this regard include the extent of proposed changes to the property, how the use would operate, external factors such as the effect on the residential character of the area, changes to the pattern of visitors to the property and strain on welfare services.

The application indicates that no changes would be made to the building, although the accompanying plan indicates that the garage may be being converted to a reception room. There may be other changes required to cover fire precautions and the like (alarms, fire proofing etc) although the application does not detail these. The application suggests that externally the home will be indistinguishable from a conventional dwelling house; the carers would work a shift pattern so that at 08.00 hrs on any day one carer would be replaced by another, while the second carer would remain on duty (the application is somewhat confused about this point), it is stated that the premises would operate like a family home although whilst this would be an aim, it is unlikely to arise in actuality, due to the range of carers and their working relationship with the resident children (a point which was conceded by the operator in appeal ref.2146559); there will be comings and goings in respect of the use and the applicant has not detailed these to any degree. It is likely that there would be a greater number of professional visitors than to the average family home. There is no

reference to visits from family members which could be likely to increase the number of visitors and traffic movements to the property.

The basis for the grant of a certificate is that the onus of proof rests with the applicant to demonstrate lawfulness. The application includes insufficient information to demonstrate that a C2 use would not be materially different from a dwellinghouse use. In the absence of such detail, it may be concluded that a material change of use would occur.

Effect of previous planning history

The applicant has previously obtained a certificate in respect of a use as social work housing, where carers would live in on 7 day shifts. The conclusion of that application was that the use was C2, but that change of use was not "material". These conclusions can sometimes be quite finely balanced. As every case has to be considered on its own particular facts, it is in order to reach a different conclusion on a different set of circumstances, as has been presented here.

Conclusion

In conclusion, the proposed use would be within Class C2 and not C3 and would therefore be a change of use. On the particular circumstances of this application, it has not been demonstrated by the applicant that such a use would not be materially different from a C3 use in respect of traffic generation and the extent of persons visiting the premises. As the onus of proof lies with the applicant it cannot be concluded that such a change of use would not be materially different. It is concluded that a material change of use, requiring planning permission, would take place. Accordingly it is recommended that the application be refused.

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: REFUSE

The Reason(s) for refusal are:

- 1 As there would be no adults resident at the property, the occupiers cannot be regarded as a household. Therefore, the proposed use cannot be classified as within Class C3. The use would be within Class C2 (residential institutions). On the particular circumstances of this application, it has not been demonstrated by the applicant that such a use would not be materially different from a C3 use in respect of its general character and the traffic generation and extent of persons visiting the premises. As the onus of proof lies with the applicant it cannot be concluded that such a change of use would not be materially different. It is concluded that a material change of use, requiring planning permission, would take place.

Note(s) to Applicant:

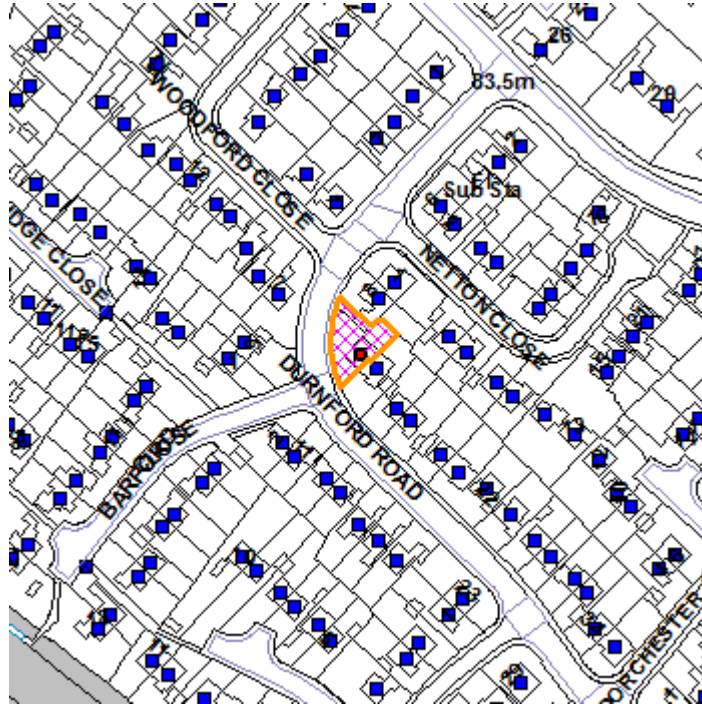
- 1 **Appeals to the Secretary of State**

If you are aggrieved by the decision of your local planning authority to refuse your application for a certificate of lawful proposed development, then you can appeal to the Secretary of State under section 195 of the Town and Country Planning Act 1990.

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

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.gov.uk/appeal-planning-inspectorate

4.	16/00392/FUL	10 Durnford Road Wigston Leicestershire LE18 2RG
	16 September 2016	Erection of 6 bed 2.5 storey semi detached dwelling with integral double garage.
	CASE OFFICER	Stephen Robshaw



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Site and Location

The application site is on the North Eastern side of Durnford Road immediately opposite its junction with Barford Close. The site is currently not developed save for the footings for the current proposed development which have now been in place for a considerable period of time.

The site is positioned on a 90 degree bend in the road.

Previously the site was occupied by a semi detached bungalow which has been demolished in order to make way for the development now proposed.

The immediate locality has a mix of Single storey bungalows, chalet bungalows and 2 storey houses.

Description of proposal

The proposal is for the construction of 2 x 2.5 storey 6 bed residential dwelling with integral double garage to replace the single storey semi detached bungalow previously occupying the site

The proposal allows for the parking/garaging of a total of 2 x 4 vehicles.

The proposal allows for the creation of 2 x 6 double en-suite bedrooms spread over the top 1.5 storeys.

The statutory determination period for this application expires on the 11 November 2016 but an extension of time has been agreed to 18 November 2016 and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

Nothing in date- last permission was in respect of the bungalow that used to stand on this site and has since been demolished

Consultations

LCC Highways:- LCC have simply referred the LPA to current standing advice provided in September 2011. Consider Parking and Visibility.

Representations

Neighbours have been informed and a notice posted on site and 6 online/email objections have been received at the time of writing this report.

The date for the receipt of comments expired on the 17 October 2016

The reasons for objection can be summarised as follows: -

- Size of development – too big for the site. (4)
- Spoiling my view. (1)
- Additional noise from additional vehicles (1)
- Additional traffic from such large properties. (5)
- Out of character with the area. (6)
- Harmful to the visual amenity of the area (2)

Relevant Planning Policies

National Planning Policy Framework

Oadby & Wigston Core Strategy

Core Strategy Policy 14: Design and Construction

Oadby and Wigston Local Plan

Landscape Proposal 1: Design of new development subject to criteria.

Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document

Policy considerations

The current proposal does not accord with the National Planning Policy Framework on good design and OWBC Policies L1 and Core Strategy Policy 14 which state;

LANDSCAPE PROPOSAL 1:

Development will be permitted provided:

- 1) existing landscape features, such as walls, hedges and trees, will be retained and additional well designed landscaping and open space that is well related in scale and location to the proposed development will be provided in the layout of larger developments;
- 2) the building design, scale, form and materials will contribute positively to the overall quality of the environment and be carefully related to existing and proposed development;
- 3) the layout, design and landscaping features will discourage crime;
- 4) it will not harm the amenities of occupiers of adjacent properties or cause a juxtaposition of incompatible uses; and
- 5) it will not prejudice the development of adjoining land.

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;
- will provide opportunities to promote biodiversity;
- will create, enhance or improve accessibility, legibility, permeability and connectivity;
- will provide opportunities for well designed and integrated public art;
- 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; and
- utilises inclusive design principles including layout, orientation, landscape, streetscape, scale, materials, natural surveillance and sustainable construction.

RESIDENTIAL DEVELOPMENT SUPPLEMENTARY PLANNING DOCUMENT

2.0 Housing Design and the Overall Appearance of the Development

All new development should have a satisfactory relationship with its surroundings in terms of massing, height and balance. Whilst variety in design through changes in roof form or storey height will not be discouraged, new development should not be overdominant or otherwise harmful to the pleasant appearance of the surroundings. Large dominant extensions are rarely satisfactory and particular care is needed in the case of front extensions to semi-detached or terraced properties. In order to improve the architectural quality of the built environment, a high standard of design will be required in all forms of development and materials should be chosen to give a pleasant appearance and identity to the scheme. Furthermore in the interests of energy conservation, all new development should be designed to be as energy efficient as possible.

Planning Considerations

The main issues to consider in determining the application are the impact on the character and appearance of the street scene, the impact on the amenity of neighbouring residential properties, and the impact on the highway along with any serious overlooking issues.

The proposal clearly has a substantial effect on the visual amenity of both the immediate neighbours and the wider area as the proposed development will be the only 2.5 storey dwellings in the area. The dormer windows at the top level are also completely out of character with the area both visually and in number.

Whilst the windows to the en-suites are shown as being fitted with obscure glazing there is still a high degree of overlooking into neighbouring properties simply because of the number of bedrooms located on the top 1.5 floors and, indeed the height of those two levels. This is not something that can reasonably be overcome or restricted by way of condition.

The proposed developments are designed to include 6 Double en-suite bedrooms giving the potential for substantially more additional vehicles at the site than parking space has been allowed for. There is, therefore, a serious possibility of additional vehicles being parked on the highway on what will become a partially blind bend with no yellow or white line restrictions currently in force.

Officers are aware that should the proposed developments be permitted there is huge potential for the use of the property to be changed from the proposed private, single family residence to a multi occupancy premises. Whilst a planning condition can be put in place to try to prevent such a change of use it will be very difficult to monitor and any such use would be totally inappropriate in this location.

The leisure amenity space available, in particular at number 12, seems quite small bearing in mind the potential numbers of residents at the proposed dwellings.

It is the officers opinion that, whilst residential development of this site cannot reasonably be refused, the current proposal is inappropriate for the site in respect of both overbearing impact on the neighbouring properties and the size of the development site.

Conclusion

Whilst the redevelopment of this site is to be welcomed, as it has been empty and unused for far too long, the current proposal is completely inappropriate in terms of scale, bulk, overlooking, harm to visual amenity and parking and leisure facilities.

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

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	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: REFUSE

The Reason(s) for refusal are:

- 1 The proposal clearly has a substantial effect on the visual amenity of both the immediate neighbours and the wider area as the proposed development will be the only 2.5 storey dwellings in the area. the dormer windows at the top level are also completely out of character with the area both visually and in number.
- 2 Whilst the windows to the en-suites are shown as being fitted with obscure glazing there is still a high degree of overlooking into neighbouring properties simply because of the number of bedrooms located on the top 1.5 floors and, indeed the height of those two levels. This is not something that can be overcome or restricted by way of condition.
- 3 The proposed development is designed to include 6 double en-suite bedrooms giving the potential for substantially more additional vehicles than parking space has been allowed for. There is, therefore, a serious possibility of additional vehicles being parked on the highway on what will become a partially blind bend with no yellow or white line restrictions currently in force.
- 4 The leisure and amenity space available is small bearing in mind the potential numbers of residents at the proposed dwelling.

Note(s) to Applicant:

- 1 **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.gov.uk/appeal-planning-inspectorate

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.

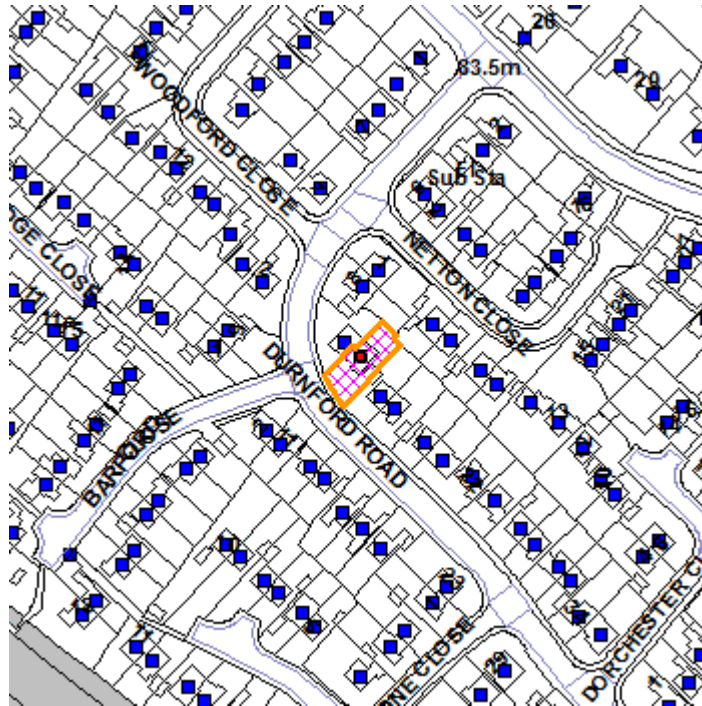
The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements,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

5.	16/00393/FUL	12 Durnford Road Wigston Leicestershire LE18 2RG
	16 September 2016	Erection of 6 bed 2.5 storey semi detached dwelling with integral double garage.
	CASE OFFICER	Stephen Robshaw



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Site and Location

The application site is on the North Eastern side of Durnford Road immediately opposite its junction with Barford Close. The site is currently not developed save for the footings for the current proposed development which have now been in place for a considerable period of time.

The site is positioned on a 90 degree bend in the road.

Previously the site was occupied by a semi detached bungalow which has been demolished in order to make way for the development now proposed.

The immediate locality has a mix of Single storey bungalows, chalet bungalows and 2 storey houses.

Description of proposal

The proposal is for the construction of 2 x 2.5 storey 6 bed residential dwelling with integral double garage to replace the single storey semi detached bungalow previously occupying the site

The proposal allows for the parking/garaging of a total of 2 x 4 vehicles.

The proposal allows for the creation of 2 x 6 double en-suite bedrooms spread over the top 1.5 storeys.

The statutory determination period for this application expires on the 11 November 2016 but an extension of time has been agreed to 18 November 2016 and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

Nothing in date- last permission was in respect of the bungalow that used to stand on this site and has since been demolished

Consultations

LCC Highways:- LCC have simply referred the LPA to current standing advice provided in September 2011. Consider Parking and Visibility.

Representations

Neighbours have been informed and a notice posted on site and 6 online/email objections have been received at the time of writing this report.

The date for the receipt of comments expired on the 17 October 2016

The reasons for objection can be summarised as follows: -

- Size of development – too big for the site. (4)
- Spoiling my view. (1)
- Additional noise from additional vehicles (1)
- Additional traffic from such large properties. (5)
- Out of character with the area. (6)
- Harmful to the visual amenity of the area (2)

Relevant Planning Policies

National Planning Policy Framework

Oadby & Wigston Core Strategy

Core Strategy Policy 14: Design and Construction

Oadby and Wigston Local Plan

Landscape Proposal 1: Design of new development subject to criteria.

Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document

Policy considerations

The current proposal does not accord with the National Planning Policy Framework on good design and OWBC Policies L1 and Core Strategy Policy 14 which state;

LANDSCAPE PROPOSAL 1:

Development will be permitted provided:

- 1) existing landscape features, such as walls, hedges and trees, will be retained and additional well designed landscaping and open space that is well related in scale and location to the proposed development will be provided in the layout of larger developments;
- 2) the building design, scale, form and materials will contribute positively to the overall quality of the environment and be carefully related to existing and proposed development;
- 3) the layout, design and landscaping features will discourage crime;
- 4) it will not harm the amenities of occupiers of adjacent properties or cause a juxtaposition of incompatible uses; and
- 5) it will not prejudice the development of adjoining land.

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;
- will provide opportunities to promote biodiversity;
- will create, enhance or improve accessibility, legibility, permeability and connectivity;
- will provide opportunities for well designed and integrated public art;
- 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; and
- utilises inclusive design principles including layout, orientation, landscape, streetscape, scale, materials, natural surveillance and sustainable construction.

RESIDENTIAL DEVELOPMENT SUPPLEMENTARY PLANNING DOCUMENT

2.0 Housing Design and the Overall Appearance of the Development

All new development should have a satisfactory relationship with its surroundings in terms of massing, height and balance. Whilst variety in design through changes in roof form or storey height will not be discouraged, new development should not be overdominant or otherwise harmful to the pleasant appearance of the surroundings. Large dominant extensions are rarely satisfactory and particular care is needed in the case of front extensions to semi-detached or terraced properties. In order to improve the architectural quality of the built environment, a high standard of design will be required in all forms of development and materials should be chosen to give a pleasant appearance and identity to the scheme. Furthermore in the interests of energy conservation, all new development should be designed to be as energy efficient as possible.

Planning Considerations

The main issues to consider in determining the application are the impact on the character and appearance of the street scene, the impact on the amenity of neighbouring residential properties, and the impact on the highway along with any serious overlooking issues.

The proposal clearly has a substantial effect on the visual amenity of both the immediate neighbours and the wider area as the proposed development will be the only 2.5 storey dwellings in the area. The dormer windows at the top level are also completely out of character with the area both visually and in number.

Whilst the windows to the en-suites are shown as being fitted with obscure glazing there is still a high degree of overlooking into neighbouring properties simply because of the number of bedrooms located on the top 1.5 floors and, indeed the height of those two levels. This is not something that can reasonably be overcome or restricted by way of condition.

The proposed developments are designed to include 6 Double en-suite bedrooms giving the potential for substantially more additional vehicles at the site than parking space has been allowed for. There is, therefore, a serious possibility of additional vehicles being parked on the highway on what will become a partially blind bend with no yellow or white line restrictions currently in force.

Officers are aware that should the proposed developments be permitted there is huge potential for the use of the property to be changed from the proposed private, single family residence to a multi occupancy premises. Whilst a planning condition can be put in place to try to prevent such a change of use it will be very difficult to monitor and any such use would be totally inappropriate in this location.

The leisure amenity space available, in particular at number 12, seems quite small bearing in mind the potential numbers of residents at the proposed dwellings.

It is the officer's opinion that, whilst residential development of this site cannot reasonably be refused, the current proposal is inappropriate for the site in respect of both overbearing impact on the neighbouring properties and the size of the development site.

Conclusion

Whilst the redevelopment of this site is to be welcomed, as it has been empty and unused for far too long, the current proposal is completely inappropriate in terms of scale, bulk, overlooking, harm to visual amenity and parking and leisure facilities.

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

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	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: REFUSE

The Reason(s) for refusal are:

- 1 The proposal clearly has a substantial effect on the visual amenity of both the immediate neighbours and the wider area as the proposed development will be the only 2.5 storey dwellings in the area. the dormer windows at the top level are also completely out of character with the area both visually and in number.
- 2 Whilst the windows to the en-suites are shown as being fitted with obscure glazing there is still a high degree of overlooking into neighbouring properties simply because of the number of bedrooms located on the top 1.5 floors and, indeed the height of those two levels. This is not something that can be overcome or restricted by way of condition.
- 3 The proposed development is designed to include 6 double en-suite bedrooms giving the potential for substantially more additional vehicles than parking space has been allowed for. There is, therefore, a serious possibility of additional vehicles being parked on the highway on what will become a partially blind bend with no yellow or white line restrictions currently in force.

Note(s) to Applicant:

1 **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.gov.uk/appeal-planning-inspectorate

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.

6.	16/00295/FUL	Meadow Hill Cooks Lane Wigston LE18 3TA
		Demolition of existing dwelling and erection of 53 dwellings with associated vehicular access, parking and landscaping
	CASE OFFICER	Jon Imber

Site and Location

The application site consists of approximately 2.36 hectares to the south of Cooks Lane, Wigston. The site comprises a detached dwelling and an adjoining paddock on the southern edge of the Leicester Principal Urban Area. The site lies approximately 1.5km south of Wigston Town Centre and approximately 0.25km north of the rural settlement of Kilby Bridge.

Surrounding land uses include residential properties and public open space to the north, a single residential property and open countryside to the west, open countryside to the south and a single dwelling and open countryside to the east.

The site is enclosed by established hedgerows approximately 3 to 4 metres in height interspersed with mature trees. Trees are confined to the site boundaries with the exception of those relatively small specimens within the domestic curtilage of the dwelling in the north-western corner of the site.

The dwelling in the north-western corner of the site is a relatively modern single storey property finished in off-white render with a concrete tile roof.

There are currently two site accesses of Cooks Lane, one of which serves the residential property and the other of which serves the field. The site is relatively flat, with only a very gentle slope downwards from north to south.

The site lies outside of any settlement boundary within the Saved Local Plan in an area designated as countryside. It lies within the indicative Broad Direction for Growth identified within the Core Strategy.

The nearest conservation area to the site is the Grand Union Canal, which lies approximately 0.4km south of the site. The nearest listed building lies over a kilometre away.

According to Environment Agency mapping, the site lies predominantly within Flood Zones 2 and 3a. In Flood Zone 2 the risk of fluvial flooding is between 1 in 1000 and 1 in 100, and in Flood Zone 3a the annual risk is 1 in 100 or greater.

Description of proposal

The application seeks detailed planning permission for the residential development of the site, consisting of:

- the erection of 53 dwellings;
- the formation of two accesses and internal estate roads;
- associated landscaping and public open space; and
- a pumping station in the south-west corner of the site, served by its own separate access.

The residential component of the development has a gross density of approximately 22 dwellings per hectare. The proposed layout shows a development of 2, 3 and 4 bedroomed properties with floorspaces varying between 64m² and 132m². The dwellings are predominantly accessed via a new site entrance onto Wigston Road, with five dwellings taking access from a single entrance onto Cooks Lane. The properties are all two storeys, with the exception of four two and a half storey dwellings. The dwellings consist of a mixture of detached, semi-detached and terraced properties.

Of the 53 dwellings, 11 are to be affordable housing. This represents just over 20% of the total provision on the site.

The layout shows the principal route through the development arranged in a 'T' shape, with the top of the T running broadly east-west across the site, and the spine of the T running towards the southern site boundary. Secondary spurs serve dwellings on the periphery of the development. At least two off-street parking spaces per dwelling are to be provided across the development.

The layout shows a buffer zone of public open space which wraps around the eastern and southern edges of the developed area of the site. Key trees on the site boundaries are to be retained.

The proposed pumping station is a fenced compound in the south-western corner of the site. It has its own separate access off Welford Road.

The application is accompanied by: -

- An Affordable Housing Statement
- A Biodiversity Survey and Report
- A Design and Access Statement
- A Flood Risk Assessment
- A Heritage Statement
- A Contaminated Land Assessment
- Draft Heads of Terms
- A Transport Assessment
- A Tree Survey

The statutory determination period for the application expired on the 18th August 2016, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

The site has no planning history of relevance to this proposal.

Consultations

Oadby and Wigston Planning Policy – The NPPF encourages the re-use of previously developed land over greenfield sites. The site is greenfield, but lies within the Direction for Growth Area to the south-east of Wigston as identified within Core Strategy Policy 1.

The principle of residential development of the site is therefore acceptable. The development must, however comply with the following planning policies:-

Core Strategy Policy 3 Regeneration Schemes states that where large scale change or regeneration schemes are proposed, the Borough Council will require the production of Masterplans or other appropriate plans and strategies. Regard should be had to the outline planning permission and the concept masterplan that was consulted upon by David Wilson Homes.

Core Strategy Policy 4 Sustainable Transport and Accessibility requires that in all new build schemes, the highways and transport infrastructure requirements needed to support that

development must be considered and if development is of a significant scale a transport assessment and/or travel plan is required. It is vitally important that the Highways Authority is satisfied that the new proposed access off Welford Road is sufficient to allow safe vehicular access into and from not only the proposal site but also any further development of the Direction for Growth area (to the east), onto Welford road. Regard should be had to the outline planning permission and the concept masterplan that was consulted upon by David Wilson Homes. The concept masterplan and outline planning permission illustrates a roundabout access into the Direction for Growth area further to the south along Welford Road.

Core Strategy Policy 5 Green Infrastructure suggests that the Borough Council will seek a net gain in Green Infrastructure through the protection and enhancement of assets and the creation of new multifunctional areas of green space.

Core Strategy Policy 8: Climate Change and Renewable Energy, requires any application for new development to submit a 'Sustainability Statement', that demonstrates how CO2 emissions will be reduced and by how much.

Core Strategy Policy 9 Flood Risk and the Water Environment requires that development should be safe from flooding and not increase risk of flooding elsewhere. In addition, all development over 1 hectare in size must have a detailed Flood Risk Assessment carried out which identifies necessary mitigation and adaptation measures. The Environment Agency records show that a large proportion of the proposal site is situated within both Flood Risk Zones 2 and 3.

Core Strategy Policy 11 Affordable Housing states that affordable housing will be sought on all developments of 10 dwellings or more. With the proposal being situated in the settlement area of Wigston it would be expected that at least 20 per cent of the residential units would be affordable.

Core Strategy Policy 14 – Design and Construction; states that the Council requires high quality inclusive design for all new development and major refurbishment in the Borough.

Core Strategy Policy 15 – Landscape and Character; in summary states that all development proposals will be considered against the need to protect and enhance the distinctive landscape and historic character of the Borough.

It also must be noted that Developer Contributions will apply (see Developer Contributions Supplementary Planning Document). Based upon our calculations for assessing off-site contributions towards Open Space, Sport and Recreation from new developments, the application at Meadow Hill, Cooks Lane would require a contribution of **£149,592.48**.

Leicestershire County Council (Highways) – Has no objections subject to conditions relating to the gradients of accesses, provision of drainage, provision of surfaced parking and turning spaces, minimum dimensions of garages, provision of the site access in accordance with the approved details, and submission of details of off-site highway works. Section 106 obligations requiring the provision of travel packs to inform new residents of sustainable travel options (including two 6 month bus passes per dwelling), and a contribution towards equipping the nearest bus stops with a Real Time Information system (**£6,000**) are requested.

Natural England – Has no comments.

Councillor Charlesworth – Requested that the application be considered by the Planning Applications Committee because of the possible presence of iron age remains and in particular flooding issues.

Leicestershire County Council (Archaeological Services) – The site lies within an area of significant archaeological interest. Whilst no known archaeological remains have been recorded within the development area (except for ridge and furrow earthworks), a number of sites are recorded in the

immediate vicinity. In order to properly assess the archaeological implications of the development a field evaluation should take place, including trial trenching as appropriate.

Leicestershire County Council (Contributions Team) – The site would generate an additional 13 Primary school pupils, 9 11-16-year-old pupils and 2 Post 16 pupils.

The overall deficit in primary school places within a two-mile walking distance of the development is 1 pupil place. A contribution of 1 pupil place (**£5807.52**) is therefore requested to improve facilities at The Meadow Community Primary School.

The overall deficit in 11-16 schools within a three-mile walking distance of the development is 219 pupil places. A contribution of 9 pupil places (**£155,165.16**) is therefore requested towards improving, remodelling or enhancing facilities at Wigston Academy.

There is a surplus of places at Wigston College and as such no contribution towards Post-16 places is required.

The proposal would impact upon the delivery of library services in the area. A contribution of **£1,570** towards Wigston Library is therefore requested.

The Civic Amenity Site at Oadby will be able to meet the demands of the proposed development and as such no contribution is required on this occasion.

Leicestershire County Council (Ecology) – Considers that the ecological reports submitted are acceptable and agrees that the site is not of Local Wildlife Site level. Recommends conditions regarding compliance with the approved plans, development to be carried out in accordance with the recommendations of the protected species report, retention of hedgerows, provision of buffer zones to the eastern and southern boundaries, landscaping, lighting, removal of vegetation outside of the bird nesting season and the submission of an updated badger survey prior to commencement.

Wigston Civic Society – Raises concerns regarding traffic safety on the A5199 given the proximity of the site access to other junctions, the distance to the nearest bus stop, the history of flooding on the site, and the lack of a link to the Newton Lane development. Is pleased that on-site affordable housing is to be provided, that a heritage survey has been completed and that nearly all provision is two storey only. Considers that a public meeting should be held.

The Environment Agency - Has no objections, in principle, to the proposed development but recommends that if planning permission is granted the following planning condition is imposed:

“The development hereby permitted shall not be commenced until such time as a scheme to prevent flood risk to occupants and others has been submitted to, and approved in writing by, the local planning authority.

- 1. Full details of the ground re-profiling.*
- 2. Ensure finished floor levels are set no lower than 300mm above 1:100 year event including climate change.*
- 3. Measures to manage and maintain the defences and or ground re-profiling after completion.*

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.”

Representations

Neighbours have been informed and three notices placed adjacent to the site. The proposals have also been publicised in the local press. 16 letters of representation have been received at the time of writing this report.

The date for the receipt of comments expired on the 18th August 2016.

The reasons for objection can be summarised as follows: -

- The proposals would spoil the rural character of Cooks Lane. Cooks Lane is very popular with dog walkers, joggers etc.
- The land is susceptible to flooding. New houses here would be at risk from flooding and would increase flood risk elsewhere.
- Impact on wildlife, in particular bats and birds and their habitat
- Impact upon neighbouring properties
- Increased traffic would lead to congestion and compromise highway safety
- The proposals are too large and would be out of character.
- Kilby Bridge would lose its identity as a separate settlement.
- Cumulative impact with scheme at Newton Lane
- Brownfield sites should be developed first.
- Loss of views
- Devaluation of property
- There is no need for more housing in the area.

Relevant Planning Policies

National Planning Policy Framework

In particular Sections 6, 7 and 12

Oadby & Wigston Core Strategy

Core Strategy Policy 1	:	Spatial Strategy
Core Strategy Policy 3	:	Regeneration Schemes
Core Strategy Policy 4	:	Sustainable Transport & Accessibility
Core Strategy Policy 5	:	Green Infrastructure
Core Strategy Policy 7	:	The Countryside
Core Strategy Policy 8	:	Climate Change and Renewable Energy
Core Strategy Policy 9	:	Flood Risk and the Water Environment
Core Strategy Policy 11	:	Affordable Housing
Core Strategy Policy 14	:	Design and Construction
Core Strategy Policy 15	:	Landscape and Character

Oadby and Wigston Local Plan

Landscape Proposal 1 : Design of new development subject to criteria.

Supplementary Planning Document/Other Guidance

Developer Contributions Supplementary Planning Document
Residential Development Supplementary Planning Document

Planning Considerations

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

- The principle of residential development in this location
- The impact of the proposal upon the character and appearance of its surroundings
- The impact of the proposal on neighbouring residential properties.

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- The impact of the proposal upon the safe and efficient use of the highway network
- The impact of the proposal upon protected species and their habitat
- The impact of the proposals upon heritage assets and archaeology
- Flooding and drainage issues
- Section 106 obligations

The principle of residential development in this location

One of the core principles of the National Planning Policy Framework is that planning should proactively drive and support sustainable economic development to deliver the homes that the country needs.

Paragraph 14 of the NPPF establishes a presumption in favour of sustainable development. It explains that in the context of decision taking, this means approving proposals that accord with the development plan without delay. Paragraph 49 of the NPPF reaffirms that housing applications should be viewed in accordance with the presumption in favour of sustainable development.

Core Strategy Policy 1 makes provision for a Direction for Growth for residential and employment development adjoining the Leicester Principal Urban Area to the south-east of Wigston. The site falls within the indicative Direction for Growth area shown on the Key Diagram within the Core Strategy.

The proposal would contribute towards the Government's key aim of delivering new housing in a sustainable location as set out in Paragraph 17 of the NPPF. In accordance with Core Strategy Policy 1, and the presumption in favour of sustainable development set out in Paragraphs 14 and 49 of the NPPF, the broad principle of residential development on the site is therefore considered acceptable.

Landscape and Visual Impact

Paragraph 109 of the NPPF states that the planning system should contribute to the natural and local environment by protecting and enhancing valued landscapes.

Policy 15 of the Core Strategy requires new development to reflect the prevailing quality, character and features of the landscape and townscape.

The application site comprises a dwelling and adjacent parcel of grazing land on the southern edge of the Leicester Principal Urban Area. The site lies within the Wigston East sub area of the Oadby and Wigston Vales Landscape Character Area as defined by the Borough-wide Landscape Character Assessment. This sub area marks the transition between the urban area to the north and the rural landscape of the River Sence valley. The Landscape Character Assessment identifies the gradual transition from town to country and vice versa as a particular visual strength of this area, particularly when travelling on the roads radiating into/out of the area.

The Landscape Character Assessment acknowledges that the area is likely to come under increasing pressure for built development. It states that this should generally be resisted given the sensitive nature of the landscape, which is primarily as a result of its natural, historic and visual characteristics. However, it does concede that there may be some parts of this sub-area where these characteristics are not as strong as others, and where some form of development may be acceptable in landscape terms as long as it does not have an adverse impact on the character of the wider area.

The proposed development would, through the encroachment of built development into the open countryside, impact upon the character and appearance of the local landscape. However, the site is viewed in the context of the existing built development on the edge of the urban area to the north, which reduces its sensitivity in landscape character terms. Furthermore, the parcel of land which contains the site is enclosed in both physical and visual terms by established hedgerows and trees, which provide effective screening for most of the year. The proposed layout demonstrates that the

applicant has taken care to assimilate the site into the landscape, with the incorporation of buffer zones, the retention of hedgerows and key trees and in proposing only a handful of properties with more than two storeys.

The change in the landscape character of the site would be at its most evident during the construction phase and shortly after completion. However, over time the design measures proposed would successfully mitigate impacts. In the medium to long term, the effects of the proposal in landscape character terms would be a shifting of the urban/rural edge slightly southwards. It is not considered that this would be harmful to the wider landscape context.

Policy 14 of the Core Strategy relates to design and construction. It requires that new development respects local character and patterns of development, is sympathetic to its surroundings, and contributes towards creating buildings and places that are attractive with their own distinct identity.

The development has a gross density of 22 dwellings per hectare, which is considered appropriate given its location on the urban fringe. The layout shows a development of predominantly two storey dwellings, in keeping with the prevailing built context. The dwellings are laid out broadly in a perimeter block formation, so that they are outward looking and present active frontages to the public realm. Within the site, dwellings have been arranged to create well defined spaces, with individual units sited to terminate views into and within the development. The proposed dwellings have a fairly traditional character and appearance in keeping with the surrounding area. A range of parking solutions has been employed to prevent a dominance of frontage parking.

The proposed development is a high quality scheme that is appropriate to its built and landscape context. The proposals therefore accord with Policies 14 and 15 of the Core Strategy and Sections 6, 7 and Paragraph 109 of the National Planning Policy Framework.

The impact of the proposal on neighbouring residential properties.

Section 4 of the Council's Residential Development Supplementary Planning Document seeks to ensure that new development is designed so that it does not unacceptably affect the amenities enjoyed by the occupiers of neighbouring dwellings, particularly through loss of daylight or privacy.

The dwellings to the north, east and west of the site are all sufficiently distant from the proposed new properties to avoid any unacceptable loss of daylight or privacy.

Whilst the provision of new residential units on the site could lead to a slight increase in noise and disturbance, this would remain commensurate with that reasonably expected from residential properties, and would not be inherently incompatible with established residential uses in the area.

The impact of the proposal upon the safe and efficient use of the highway network

Policy 4 of the Core Strategy states that development should be designed to enhance the safety of pedestrians and road users.

Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The application is accompanied by a Transport Statement which establishes that the proposals would add only a small proportion (3.3%) to existing flows on Welford Road, that visibility at the site access is adequate, and that the proposed junction is sufficiently distant from Cooks Lane. Personal accident statistics reveal that Welford Road is relatively safe, and the site is sustainably located within a short distance of local shops and non-car travel options. The Transport Statement concludes that there are no reasons in highway terms why planning permission should not be granted.

The Highway Authority has assessed the proposals, and has no objections subject to conditions relating to on and off-site works and obligations to promote sustainable travel options. Based upon the conclusions of the Transport Statement and the recommendations of the Highway Authority it is considered that, subject to mitigation which can be secured via condition and obligations, the proposed access arrangements are safe and that traffic generated by the proposals can be assimilated into the highway network without exceeding its capacity. It is not therefore considered that the proposals would prejudice the safe or efficient use of the highway network.

The garages shown on the submitted plans all exceed 3 metres by 6 metres measured internally. The Highway Authority's recommended condition with regard to minimum dimensions is therefore covered by the Council's standard condition requiring compliance with the approved plans.

The impact of the proposal upon protected species and their habitat

Paragraph 118 of the NPPF states that if significant harm to biodiversity cannot be avoided, adequately mitigated or as a last resort compensated for, planning permission should be refused.

The application is accompanied by a Preliminary Ecological Survey and a Protected Species Report. The surveys found minimal use of the site by bats and grass snakes and confirm that it is highly unlikely that great crested newts would be encountered during construction.

The report concludes that, subject to appropriate mitigation measures, the proposals will not harm protected species of their habitat. The findings of the report are corroborated by the response of the County Ecologist, who raises no objections to the proposed development.

The condition recommended regarding external lighting is considered unreasonable and unenforceable given that homeowners can install security lighting on their properties without requiring planning permission. Furthermore, because the removal of vegetation is not development the condition requiring that it only occurs outside the bird nesting season would be *ultra vires*.

The impact of the proposals upon heritage assets and archaeology

Paragraph 132 of the National Planning Policy Framework states "*when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.*"

The nearest conservation area to the site the Grand Union Canal, which lies approximately 0.4km south of the site. The nearest listed building lies over a kilometre away. The proposals are sufficiently distant from these heritage assets to avoid harming their settings.

The application is accompanied by a desk based archaeological assessment, which recommends that a geophysical survey be undertaken to aid in determining the presence/ absence of any archaeological features. In the absence of this additional survey data, the County Archaeologist has issued a holding objection. The applicant is undertaking the additional survey work required to overcome this holding objection, but has not been able to submit the results in time for them to be included in this report. The results of the additional survey work will be therefore reported to Members as an update to this report.

Flooding and drainage issues

Section 10 of the NPPF seeks to ensure that new development is not at risk from flooding, and does not increase flood risk elsewhere. It advocates the use of a sequential test with the aim of steering development to areas with the lowest probability of flooding. The Environment Agency produces flood risk mapping with the areas at highest risk identified as Zone 3, where there is an annual

probability of flooding of greater than 1 in 100, and the areas of lowest risk identified as Zone 1, where the annual probability of flooding is less than 1 in 1000. The site lies predominantly within Flood Zones 2 and 3.

The application is accompanied by a sequential test which satisfactorily demonstrates that there are no reasonably available alternative sites at lower risk of flooding capable of accommodating the level of development proposed.

The Environment Agency has no objections to the proposals subject to appropriate mitigation, which can be secured by condition. It follows that the Environment Agency is satisfied that subject to mitigation, the proposed development is appropriate within its flood risk zone, and that the proposed dwellings would not be at unacceptable risk from flooding nor unacceptably increase flood risk elsewhere.

The proposals therefore accord with the requirements of Section 10 of the National Planning Policy Framework.

Section 106 obligations

The Oadby and Wigston Developer Contributions Supplementary Planning Document sets out the level of developer contributions required to mitigate against the impact of development.

The Developer Contributions SPD requires 20% of all dwellings on sites in Wigston to be affordable housing. It also requires a contribution towards open space, sports and recreation provision, which in this instance works out at £149,592.48.

The County Council requires £5,807 towards primary accommodation and £155,155.16 towards secondary education. A contribution of £1,570 towards library provision is requested.

In order to promote sustainable travel, the Highway Authority requests the provision of a travel pack including two 6 month bus passes to be provided for each dwelling, as well as a contribution of £6,000 towards a Real Time Information system at the nearest bus stop.

These contributions are all required to offset the impact of the proposed development, and accord with the Developer Contributions SPD.

Conclusion

The proposal involves new housing within the proposed Direction for Growth on land which is sustainably located on the edge of the Leicester Principal Urban Area. The principle of the development is therefore established by Core Strategy Policy 1 and the National Planning Policy Framework.

The proposals would not unacceptably harm landscape character, and are appropriate to their context in urban design terms.

The proposals would not unacceptably affect the amenities enjoyed by the occupiers of nearby dwelling and neither would they prejudice the safe or efficient use of the highway network.

The proposals would not exacerbate flood risk and would not unacceptably harm protected species or their habitats.

The proposals therefore constitute sustainable development which accords with Policies 1,4,15 and 15 of the Core Strategy and the National Planning Policy Framework.

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

For the reasons set out in the above report, provided that the Country Archaeologist first removes its holding objection, and provided that the applicant first enters into a Section 106 agreement to secure the obligations set out earlier in this report, then **Permit** subject to the following conditions:

- 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) 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.

- 3) No development shall take place until samples or details of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details.

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) No development shall take place until scheme of landscaping, fencing and walling, incorporating buffer zones of natural vegetation to the southern and eastern site boundaries, and showing measures for the protection of trees and hedgerows to be retained during the course of development has been submitted to and agreed 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 any of the dwellings 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) The scheme of walling and fencing approved as part of the detailed scheme of boundary treatment shall be completed prior to the first occupation of the dwelling to which the fencing/walling relates.

Reason: To safeguard the visual amenities of the area, the amenities of the future occupiers of the dwellings, and the occupiers of adjoining properties 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.

- 7) No development shall take place until a scheme for the disposal of foul sewage and surface water drainage for the site (based on sustainable drainage principles) has been 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 in accordance with the aims and objectives of the National Planning Policy Framework.

- 8) No development shall take place until details of all existing and proposed slab and site levels (including any re-grading proposed to the site) have been submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out in accordance with those details so approved.

Reason: To ensure that the development does not adversely affect the amenities of adjoining properties and the character or appearance of the area 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.

- 9) The accesses, parking and turning areas serving individual dwellings shown on the approved plans shall be provided in a bound surface and with a maximum gradient of 1 in 12 prior to the first occupation of the dwelling to which they relate.

Reason: As recommended by the Highway Authority in the interests of highway safety and in accordance with Core Strategy Policy 4.

- 10) No development shall take place until design and construction details of the new footpath link from Cooks Lane to Welford Road indicated on drawing refs. 40573.033B and 40673.002M have been submitted to and approved in writing by the Local Planning Authority. The off-site highway works shall thereafter be completed in accordance with the approved details prior to the first occupation of any of the dwellings on Plots 7 to 11.

Reason: As recommended by the Highway Authority in the interests of highway safety and in accordance with Core Strategy Policy 4.

- 11) The development hereby approved shall only be carried out in accordance with the recommendations of the approved Protected Species Survey Report dated July 2016.

Reason: To safeguard protected species and their habitats in accordance with Paragraphs 118 and 119 of the National Planning Policy Framework.

- 12) No development shall take place until a scheme to prevent flood risk to occupants and others has been submitted to, and approved in writing by, the local planning authority. The scheme shall include:-

1. Full details of any ground re-profiling.
2. Demonstration that finished floor levels are set no lower than 300mm above 1:100 year event including climate change.
3. Measures to manage and maintain the defences and/or ground re-profiling after completion.

Development shall thereafter only be carried out in accordance with the approved scheme and the measures to manage and maintain the defences and/or ground re-profiling shall remain in place throughout the life of the development.

Reason: As recommended by the Environment Agency to minimise the risk of flooding, and in accordance with Chapter 10 of the National Planning Policy Framework.

- 13) No development shall take place until a written scheme of investigation securing the implementation of a programme of archaeological work has been submitted to and approved in writing by the Local Planning Authority. The programme of work shall be implemented in accordance with the approved details.

Reason: To ensure that no development takes place which may adversely affect any items of archaeological interest without adequate prior investigation in accordance with the National Planning Policy Framework (particularly Section 12).

- 14) Notwithstanding the provisions of Classes A and E of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any Order revoking and re-enacting that Order, the garage accommodation/parking space provided in connection with the development hereby approved shall be made available at all times for the parking of vehicles in relation to the residential use of the dwellings unless planning permission has first been granted by the Local Planning Authority.

Reason: As recommended by Leicestershire County Council (Highways) in the interests of highway safety and to ensure that adequate off street parking space is provided and in accordance with the aims of Core Strategy Policy 4.

- 15) No development shall take place until a further badger survey has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with any mitigation measures recommended by the approved survey.

Reason: To safeguard protected species and their habitats in accordance with Paragraphs 118 and 119 of the National Planning Policy Framework.

BACKGROUND PAPERS

16/00308/FUL

16/00365/VAC

16/00366/CLP

16/00392/FUL

16/00393/FUL

16/00295/FUL