



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, 19 JANUARY 2017** at **7.00 PM** for the transaction of the business set out in the Agenda below.

Yours faithfully

Council Offices
Wigston
11 January 2017

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. **Reading, Confirmation and Signing of Minutes**
To read, confirm and sign the minutes of the previous meeting in accordance with Rule 17 of Part 4 of the Constitution.
 - a) **Minutes of the Previous Meeting held on 17 November 2016** 1 - 10
 - b) **Minutes of the Previous Meeting held on 15 December 2016** 11 - 15
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** 16 - 32

**MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT THE
COUNCIL OFFICES, STATION ROAD, WIGSTON ON THURSDAY, 17 NOVEMBER 2016
COMMENCING AT 7.00 PM**

<u>IN ATTENDANCE:</u>		
Chair - Councillor L A Bentley Vice-Chair - Councillor Mrs L M Broadley		
COUNCILLORS (11):		
G S Atwal G A Boulter 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
OFFICERS IN ATTENDANCE (3):		
S J Ball	T Boswell	D Gill
OTHERS IN ATTENDANCE (9):		
Cllr E R Barr Dr D A Burns Cllr M H Charlesworth	F Greaves Z Lal Mrs A Lennox	J Menna N Staddon Mrs S Wills

Min Ref.	Narrative	Officer Resp.
23.	<p><u>APOLOGIES FOR ABSENCE</u></p> <p>An apology for absence was received from Councillor R E R Morris.</p>	
24.	<p><u>APPOINTMENT OF SUBSTITUTES</u></p> <p>None.</p>	
25.	<p><u>DECLARATIONS OF INTEREST</u></p> <p>In respect of planning application number 16/00308/FUL:</p> <p>(i) Councillor Mrs H E Loydall declared a non-pecuniary interest insofar as her spouse, Councillor K J Loydall, had spoken to the applicant. The Member stated that she was not privy to any discussions.</p> <p>In respect of planning application number 16/00175/FUL:</p> <p>(i) The Chair declared a non-pecuniary interest insofar as the registered speakers were known to him, in addition to a number of members of the public in attendance. He stated that he had not discussed any part of the application with them.</p> <p>(ii) Councillor B Dave declared a non-pecuniary interest insofar as number of residents had made representations to him. He stated that he did not express a view on the application.</p> <p>All Members confirmed that they attended the meeting without prejudice and with an open mind.</p>	

26.	<p><u>MINUTES OF THE PREVIOUS MEETING HELD ON 22 SEPTEMBER 2016</u></p> <p>RESOLVED THAT:</p> <p>The minutes of the previous meeting of the Committee held on 22 September 2016 be taken as read, confirmed and signed.</p>	
27.	<p><u>PETITIONS AND DEPUTATIONS</u></p> <p>None.</p>	
28.	<p><u>REPORT OF THE PLANNING CONTROL MANAGER</u></p> <p>The Chair advised Members that the following applications were withdrawn from the consideration of this meeting of the Committee:-</p> <p>4. Application No. 16/00392/FUL - 10 Durnford Road, Wigston, Leicestershire, LE18 2RG</p> <p>5. Application No. 16/00393/FUL - 12 Durnford Road, Wigston, Leicestershire, LE18 2RG</p> <p>1. Application No. 16/00308/FUL - 55-57 Queens Drive, Wigston, Leicestershire, LE18 2DG</p> <p>The Committee gave consideration to the application (at pages 6 - 14) as delivered and summarised by the Interim Planning Control Manager which should be read together with these minutes as a composite document.</p> <p>The Chair moved and the Vice-Chair seconded the application.</p> <p>Councillor G A Boulter raised a number of concerns, namely: the number of dwelling car parking spaces <i>vis-a-vis</i> any statutory requirement and the general lack of on-street parking provision to service retail units and allow for safe vehicular movements; the potential for overlooking on adjoining properties caused by the external staircase; the loss of screening onto Holmden Avenue, Wigston by the intended removal of the conifer trees; the close proximity of the bin store to residential properties; and the inconsistency of the building's design with the overall street-scene. The Member further requested brick-detailing to the proposed building's side elevation.</p> <p>The Interim Planning Control Manager advised that: there was no such statutory requirement, that the number of dwellings was equal to the number of car parking spaces and the Highways Authority expressed no concerns as to vehicle parking within/on the highway; the siting of the external staircase was within a reasonable and non-objectionable distance to adjoining properties; the conifers intended for removal were not deemed worthy of preservation, but the conditioning of a tree re-planting schedule was possible; the siting of the bin store gave effect to Building Regulations governing refuse collection vehicular manoeuvrability; and the external aesthetics of the building was to be the subject of ongoing discussions with the applicant.</p> <p>Councillor Mrs H E Loydall enquired as to: whether the external staircase was an enclosed structure with secure access; whether the application complied with any minimum dwelling-space standards; and whether</p>	

restricting prospective dwelling-occupants to park in the car park as a planning condition was achievable to mitigate any concerns about limited availability on-street parking provision. The Member disapproved of the building's corner design and requested that further discussions be had with the applicant regarding a sympathetic choice of cladding.

The Interim Planning Control Manager advised that: the external staircase was single-access located on the building's side elevation (i.e. not the main staircase); minimum dwelling-space standards no longer existed outside the Greater London area and that the eight dwellings' floor plan area of 44m² was deemed to be functional; and that such a parking restriction planning condition would be unenforceable against prospective dwelling-occupants. He stated that the choice of external materials was a reserved matter and that the discussions would be had with the applicant in respect of the cladding being complimentary to the existing brickwork and the possible inclusion of brick-detailing to the building's side elevation.

Councillor Mrs H E Loydall moved an amendment to add an additional planning condition requiring the implementation of a substantial tree re-planting schedule to mitigate against the loss of screening by the intended removal of the conifer trees.

Councillor G A Boulter seconded the motion.

UNANIMOUSLY RESOLVED THAT:

The motion be amended, accordingly.

Councillor Mrs S Z Haq enquired as to what measures could be taken to ensure the completion of the agreement pursuant to the Town and Country Planning Act 1990, section 106 ("s106 agreement").

The Legal Advisor advised that, should Members be minded to grant planning permission, that the said permission would only be granted subject to the completion of the s106 agreement under which the relevant planning triggers would be defined.

UNANIMOUSLY RESOLVED THAT:

- (i) The application be **PERMITTED** planning permission subject to conditions; and
- (ii) an additional planning condition be added requiring the implementation of a substantial tree re-planting schedule.

2. Application No. 16/00365/VAC – Brocks Hill Visitor Centre and Country Park, Washbrook Lane, Oadby, Leicestershire, LE2 5JJ

The Health and Leisure Services Manager spoke upon the application on behalf of the applicant. She stated that the application would better realise the Council's key priority of improving the health and wellbeing of its local residents and the Council's vision statement upon "inclusiveness" by providing easier access to disabled and disadvantaged residents and visitors. The application was said to also reduce the need for vehicular use to/from the site, promoting walking as a carbon-friendly alternative and the importance to consider equality in decision-making processes.

Dr D A Burns spoke upon the application as an objector. He stated that the proposed application would compromise the security of the adjoining residential properties and the Glenmere Community Primary School ("the primary school) increasing the likelihood of trespass and vandalism thereto due to increased footfall. He further raised concerns as to the potential of: noise nuisance, the irresponsible disposal of dog foul; the dangers of pedal/motorcycles use; ineffective policing provision; litter clearance and maintenance; lack of lighting provision; and effects upon local wildlife.

Councillor M H Charlesworth spoke upon the application. He noted that concerns were previously raised at a meeting in 2005 by the primary school about pupil safety if the footpath was to be opened to the general public. He stated that it was unclear if increased anti-social behaviour (ASB) would materialise. If Members were minded to grant the application planning permission, he requested that two conditions be added, namely that: (i) bins at each end of the path be installed; and (ii) a temporary permission of one-year be granted and subject to review.

The Committee gave consideration to the application (at pages 15 - 20) and the supplementary agenda update (at page 1) 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 added that although it was the Council's overarching statutory responsibility to suppress crime where reasonable and practicable to do so, there was insubstantial evidence to support the proposition of increased crime and disorder should the application be granted planning permission.

The Chair moved and the Vice-Chair seconded the application.

The Chair enquired as to whether the application intended to remove any of the existing fencing and if, as a result, the security of the Primary School would be compromised.

The Interim Planning Control Manager advised that none of the existing fencing was to be removed and the school's perimeter fencing would be unaffected.

The Vice-Chair enquired as to whom, if Members were minded the grant planning permission, was to be responsible for the maintenance of the fencing and clearing of the pathway and if new lighting provision was necessary and, or, required.

The Interim Planning Control Manager advised that the Council would assume responsibility for maintenance and clearing of the same and that, although new lighting provision may be required, it was not a subject under current discussion.

Councillor B Dave said that he did not support the proposition that there would be no increase in crime and disorder should the application be granted planning permission. He further asked if bins were presently installed at the application site.

The Chair advised that the potential occurrence of anti-social behaviour was manifest throughout Borough. It was said that the new installation of standard bins (in which dog fouling could be deposited) at the application

site would serve the Borough's interests and assist to fulfil the Council's statutory duty to clear litter. He further stated that consideration of granting temporary planning permission was a viable option.

Councillor J Kaufman said that improved access to Brocks Hill Visitor Centre and Country Park was to be a valuable community asset. The Member moved an amendment to grant temporary planning permission for a period of two-years.

Councillor Mrs H E Loydall seconded the motion.

RESOLVED THAT:

The motion be amended, accordingly.

For 9
Against 3
Abstentions 1

Councillor D M Carter enquired as to the extent of liability owed to footpath users.

The Legal Advisor advised that the Council assumed responsibility and liability, so far as legally possible, from a failure(s) to properly maintain the footpath only.

Councillor Mrs H E Loydall noted the representations made by residents however emphasised the importance of a decision to be evidence-based. It was said that a temporary planning permission would allow sufficient opportunity for evidence to be adduced to either confirm or deny residents' perceived concerns about ASB.

Councillor Mrs S Z Haq asked if evidence had been provided by Leicestershire Police to substantiate residents' perceived ASB concerns

The Interim Planning Control Manager answered that insubstantial evidence had been received.

Councillor G A Boulter enquired as to whether access to the pathway could be restricted from 6:00 am until 6:00 pm. The Member further noted that a further decision was required to determine the most appropriate position for the relocated gate and the necessary permission(s) sought for the installation of bins. He further suggested that, should Members minded to approve temporary planning permission, the removal of the chain-link be sought after the two-year period. It was also noted that allowing 24-hour public access may provide the opportunity or increased ASB.

The Chair advised that restricting access would cause added logistical problems incumbent upon the Council.

The Vice-Chair raised concerns as to potential danger(s) to pedestrian safety if the chain link fencing remained in situ and the footpath remained unlit.

RESOLVED THAT:

The application be **PERMITTED** temporary planning permission for a period

of two-years subject to conditions.

For 12
Against 0
Abstentions 1

**3. Application No. 16/00366/CLP – 38 Redruth Avenue,
Wigston, Leicestershire, LE18 2JF**

The applicant, Mr Zamir Lal, spoke upon the application. Mr Lal clarified the nature of the work undertaken by Platform Childcare (PC). He further said that the reasons stated for the application's refusal - in respect of adults residing at the premises, the premises' character, traffic generation and extent of persons visiting the premises - had already been addressed in the application's supporting statement. He further noted that several other decision notices granting class C3 permission had been previously granted, namely: at the application site itself in May 2016 for use in respect of social work housing; and a similar home in the vicinity in September 2015.

Mr Neil Staddon spoke upon the application as an objector. He opined that the application's supporting statement did not provide sufficient, verifiable evidence to alleviate residents' perceived concerns in respect of: the likelihood of ASB incidences increasing; the type(s) of children and young people capable of being adequately and safely housed and supervised within a family-likened environment; safeguarding concerns in respect of victims/perpetrators' former involvement with paedophile rings etc. and the risk to local children; the suitability of PC's staff experience and qualifications; and inadequate parking provision and additional traffic generation.

Councillor M H Charlesworth spoke upon the application. He emphasised that the application clearly stated that, as no adult would be resident at the property, the proposed use could not be properly classified within class 3c. The Member noted the detrimental impact(s) such applications had on those affected children, young people and residents from, amongst others things, the recent closure of the Greengates establishment at Moat Street, Wigston by Leicestershire County Council (LCC). He further challenged the previous planning permission granted on the erroneous basis of there being no material change and permanent adult residence.

The Committee gave consideration to the application (at pages 21 - 25) as delivered and summarised by the Interim Planning Control Manager which should be read together with these minutes as a composite document.

The Chair and Legal Advisor jointly-advised the Committee that the application was not a planning application but one for a Lawful Development Certificate (LDC). It was said that this was strictly a legal determination taken on the balance of probabilities upon the information provided to Officers which, in this instance, required formal Committee resolution until such time as the Council's Constitution was amended.

Councillor J Kaufmann moved the recommendation as set out in the application (at page 24).

The Chair seconded the recommendation.

UNANIMOUSLY RESOLVED THAT:

The application be **REFUSED** a Lawful Development Certificate.

6. Application No. 16/00295/FUL – Meadow Hill, Cooks Lane, Wigston, Leicestershire, LE18 3TA

Mr Joe Menna, Land Manager at Westleigh Partnerships Ltd, spoke upon the application on behalf of the applicant. He stated that the application represented a well-designed housing scheme in-keeping with the surrounding area's character. The scheme was said to be made available through the Help to Buy programme in addition to providing 11 more affordable dwellings within the Borough. The contributions secured under a future s106 agreement was said to mitigate the impact of the development on local services, that the scheme would be a positive addition to the area's built environment and was not harmful to the wider landscape context. He confirmed that, following recent archaeological trial trenching at the application site which yielded no significant finds, LLC's archaeologists had since withdrew their objections. Mr Menna stated that an extensive Floor Risk Assessment (FRA) has been submitted in full consultation and agreement with the Environment Agency and the Local Flood Authority which confirmed that the development was not at risk of flooding nor would it increase the risk of flooding in the surrounding area(s).

Mrs Shirley Wills spoke upon the application as an objector. Mrs Wills stated that, with reference to Core Strategy Policy 9, the application did not provide any provision by way of documentation to alleviate the flooding problems known to affect the application site and the potential for "run-off" effects onto the surrounding area(s) notwithstanding the proposed mitigation measures. She further raised concerns in respect of the insubstantial load-bearing capacity of Cooks Lane, Wigston, the impact of increased traffic generation upon highway and pedestrian safety and the uncertain extent of removal of established hedgerows and trees enclosing the application site.

Mr Fenton Greaves spoke upon the application as an objector. Mr Greaves reiterated the aforementioned concerns raised, most notably in respect of the flooding risk to the application site and surrounding areas. He further enquired as to the extent of liability for damage owed by the Council from flooding if Members were to grant planning permission. He advocated development in other areas of the Borough.

Councillor M H Charlesworth spoke upon the application. He stated that the application site was located in an area according to the Oadby and Wigston Flood Response Plan that was "extremely vulnerable" to a "high probability" of flooding as acknowledged in the applicant's FRA. The Member opined that effects of climate change and the increasing unpredictability of the weather heightened the risk of flooding to the site and, or, surrounding areas. It was also said that the ditches and watercourses in the area were not maintained to a standard required in flood zones defined as 3A. He further noted the significant archaeological interest in the site.

Councillor E R Barr spoke upon the application. He reiterated the aforementioned concerns raised in respect of the flooding risk to the application site, surrounding areas and pre-existing properties sited thereupon and near to, stating that there was other areas within the Borough capable of developed that did not entertain the same known risks. The Member further noted the detrimental impact of the application on the amenity and character value of the semi-rural greenbelt enclosing Cooks

Lane. It was also said that the remaining 42 dwellings not allocated as “affordable” did not go far enough to meet the Borough’s increasing *local* need for more affordable housing.

The Committee gave consideration to the application (at pages 38 - 49) 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 added that the application site was included, and was essential to meeting, the Council’s five-year land supply target. He advised that the FRA accompanying the application was sufficiently robust to effectively mitigate against, and otherwise better manage, the risk of flooding and included an additional 40% contingency factor for unpredictable rainwater levels. He also confirmed that following the results of the additional archaeological survey work, LCC’s Archaeological Services had withdrawn their representations.

The Interim Planning Control Manager further cited three additional conclusions for potential inclusion should Members be minded to grant planning permission.

The Chair moved and Councillor D M Carter seconded the application, subject to an amendment to add the foregoing conditions as cited, namely:

(1) No demolition/development shall take place/commence until a programme of archaeological work (comprising archaeological topographic survey of the Ridge and Furrow, to include analysis of available LiDAR data) has been detailed within a Written Scheme of Investigation, submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

- The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme)*
- The programme for post-investigation assessment*
- Provision to be made for analysis of the site investigation and recording*
- Provision to be made for publication and dissemination of the analysis and records of the site investigation*
- Provision to be made for archive deposition of the analysis and records of the site investigation*
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.*

(2) No demolition/development shall take place other than in accordance with the Written Schemes of Investigation approved under condition (1).

(3) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (1) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure satisfactory archaeological investigation and recording.

Councillor B Dave raised a number of concerns, namely: the increase in traffic generation, without attenuation measures, stating that the accompanying Transport Statement ought to have assessed the impact of traffic flow(s) beyond Welford Road, Wigston; and, with reference to condition 12, that a flood prevention scheme ought to be submitted and approved before a decision is taken by the Committee, and that Members should have an opportunity to appraise such plans and reports submitted.

The Interim Planning Control Manager advised that all plans and reports in relation to the flood prevention scheme were to be carefully scrutinised by the appropriate authorities and that the necessary enforcement action was available to the planning authority should the applicant not comply with condition 12 prior to development.

The Chair advised that it was not the proper function of the Committee to micromanage Officers in relation to planning conditions as determined by the expert authorities and that Members were not qualified to appraise such reports and plans.

The Chair and Legal Advisor jointly-advised that, if Members were minded to refuse planning permission by disregarding expert advice, there was a substantial risk of the Council being unsuccessful upon any prospective appeal whereby the Council would bear a cost implication and lose its ability to impose conditions. It was said that if the Committee consistently chose to disregard expert advice, the planning authority could be placed into special measures with all applications determined directly by the Planning Inspectorate.

Councillor G A Boulter reiterated the concerns in respect of the known flooding risk to the application site and surrounding areas, however acknowledged that local knowledge could not be properly used to inform the decision-making process and that the Committee must defer the expertise of the appropriate authorities.

Councillor Mrs S Z Haq enquired as to who was responsible for ensuring compliance with the planning conditions and the extent of liability for damage owed by the Council from flooding.

The Interim Planning Control Manager advised that responsibility would be assumed by the developer and contractor, with the conditions attached to the application site, and that the Council would have no liability if it could be proved that the planning process had been properly administered. It was said this could be proven.

Councillor R E Fahey questioned the reliability of the Council's housing supply arrangements insofar as its associated plans had been drafted some 30 years prior (c. 1990) which may not have a complete understanding of the flooding risks.

The Interim Planning Control Manager advised that the plans undertaken in the 1990's included a comprehensive strategic flood risk assessment. He stated that development on floodplains was a common occurrence and that measures to protect against flooding on such sites had since significantly improved thus reducing the risk thereof and the wider-felt implications of any down-stream impact.

Councillor Mrs H E Loydall stated that there were no material planning

	<p>grounds upon which the Committee could properly refuse planning permission and reiterated the significant legal consequences faced should Members resolve the same.</p> <p>RESOLVED THAT:</p> <p>The application be PERMITTED planning permission subject to conditions.</p> <p>For 8 Against 4 Abstentions 1</p>	
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THE MEETING CLOSED AT 9.40 PM



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CHAIR

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THURSDAY, 19 JANUARY 2017

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MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT THE COUNCIL OFFICES, STATION ROAD, WIGSTON ON THURSDAY, 15 DECEMBER 2016 COMMENCING AT 7.00 PM

<u>IN ATTENDANCE:</u>		
Chair - Councillor L A Bentley Vice-Chair - Councillor Mrs L M Broadley		
COUNCILLORS (9):		
G S Atwal G A Boulter F S Broadley	D M Carter R E Fahey D A Gamble	Mrs S Z Haq Mrs H E Loydall R E R Morris
OFFICERS IN ATTENDANCE (4):		
S J Ball T Boswell	D Gill Ms S Lane	
OTHERS IN ATTENDANCE (3):		
Cllr M H Charlesworth	P Hempill	S Mistry

Min Ref.	Narrative	Officer Resp.
29.	<u>APOLOGIES FOR ABSENCE</u> An apology for absence was received from Councillors B Dave, J Kaufman and Dr T K Khong.	
30.	<u>APPOINTMENT OF SUBSTITUTES</u> None.	
31.	<u>DECLARATIONS OF INTEREST</u> In respect of planning application number 16/00024/FUL, the Chair declared a non-pecuniary interest insofar he had been approached by an objector seeking to arrange a meeting to discuss the application but declined the request. The Chair confirmed that he attended the meeting without prejudice and with an open mind.	
32.	<u>MINUTES OF THE PREVIOUS MEETING HELD ON 17 NOVEMBER 2016</u> The Chair advised that the minutes of the previous meeting of the Committee held on Thursday, 17 November 2016 were to stand as an item referred to the next meeting of the Committee due to be held on Thursday, 19 January 2017.	
33.	<u>PETITIONS AND DEPUTATIONS</u> None.	
34.	<u>THE BOROUGH COUNCIL OF OADBY & WIGSTON (LAND AT DRAPER HOUSE, 51 SAFFRON ROAD, WIGSTON, LEICESTERSHIRE, LE18 4UL) TREE PRESERVATION ORDER 2016</u>	

	<p>The Committee gave consideration to the report and appendix (at pages 1 - 14) as delivered and summarised by the Arboricultural Officer which should be read together with these minutes as a composite document.</p> <p>Councillor Mrs H E Loydall moved the recommendation as set out at paragraph 2 of the report (at page 1).</p> <p>Councillor G A Boulter seconded the recommendation.</p> <p>Councillors R E R Morris and D M Carter commended the Tree Preservation Order's (TPO) confirmation on behalf of all Members and residents.</p> <p>UNANIMOUSLY RESOLVED THAT:</p> <p>The Borough Council of Oadby & Wigston (Land at Draper House, 51 Saffron Road, Wigston, Leicestershire, LE18 4UL) Tree Preservation Order 2016 be confirmed.</p>	
<p>35.</p>	<p><u>REPORT OF THE PLANNING CONTROL MANAGER</u></p> <p>1. Application No. 16/00024/FUL - 39 Long Street, Wigston, Leicestershire, LE18 2AJ</p> <p>Mr Sanjay Mistry, Managing Director at SKM Design, spoke upon the application on behalf of the applicant. Mr Mistry stated additional work had been undertaken to render the application acceptable and discussions with the Trustees of the Kingdom Hall regarding access and design had been conducted. He said that the existing Working Men's Club (WMC) building was in a significant state of disrepair. It was said that that the development sought to bring the site back into use with a scheme of residential dwellings together with garden areas and parking facilities. He noted that, other than the one representation received, on other objections had been raised.</p> <p>Councillor R E Fahey entered the Chamber at 7:05 pm.</p> <p>Mr Peter Hempill, Director Architect at Ark Designs, spoken upon the application on behalf of the Trustees of Kingdom Hall ("the Trustees") as an objector. Mr Hempill stated that the Trustees sought a deferral of the application to allow adequate time to review the latest plan amendments. He opined that several errors had been made in the report, namely: the citing of clause 32 (clause 39) of the National Planning Policy Framework (NPPF) to justify a shortfall in car parking could not be used to set aside, as opposed to setting, local parking standards; that the applicant had not engaged in any discussion or consultation of the current proposals with the Trustees and therefore had not considered the rights of the latter; there had been no dialogue or agreement with the Trustees regarding the change of purpose of the intended two-way access road considered to be unsafe; and obstructions to access of the Kingdom Hall site from insufficient car spaces in ratio to the number of dwellings.</p> <p>The Committee gave consideration to a letter of representation tabled at the meeting and dated 15 December 2016 addressed to the Planning Officer from Ark Design.</p> <p>Councillor M H Charlesworth spoke upon the application. He acknowledged that the site in question was in a state of disrepair however resisted the demolition of the existing WMC building described as one of the oldest in</p>	

the country. He raised a concern as to the potential access obstruction to the Kingdom Hall resulting from the insufficient number of dwelling car parking spaces. It was said that the proposed buildings were not sympathetic to The Lanes Conservation Area (CA). The Member requested that, if Members were minded to grant planning permission, that: a condition be added to include a footpath; that condition 15 be better substantiated to prevent access obstruction during the construction phase; and the need for an access agreement between the applicant and Trustees prior to development.

The Chair advised Councillor R E Fahey he was not entitled to exercise his vote upon the application due to his lateness of arrival to the Chamber.

The Committee gave consideration to the application (at pages 38 - 49) 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 advised that the existing WMC building was not a listed building however was a heritage asset within the CA. The meaning of a 'material planning consideration' was said to exclude the protection of private interests in relation to any private-access agreement between the applicant and Trustees. It was advised that, in accordance with paragraph 32 of the NPPF, refusal on the grounds of the impact(s) upon the safe and efficient use of the highway network resulting from access, ratio of car parking spaces and proximity of the development to the town centre could not be substantiated as "severe". The recommendation was also said to ought to include an agreement pursuant to the Town and Country Planning Act 1990, section 106 ("s106 agreement") in accordance with the contributions and affordable housing arrangements set out in the report (at page 22).

The Chair moved and the Vice-Chair seconded the application for debate.

Councillor G A Boulter noted the significant contribution of the existing WMC building to the character of the CA citing the relevance of the representations made by the various heritage associations in the report (at page 18). He further raised concerns as to there being a residual cumulative impact upon the highway (viz. the insufficient number of dwelling car parking spaces, access arrangement complications), the proposed buildings being inconsistent with the street-scene and that no discussion or consultation of the proposals having been held with the Wigston Civic Society.

Councillor Mrs H E Loydall enquired as to whether all the appropriate authorities and properties with the area had been properly informed about the application. She acknowledged that the existing WMC building was derelict for a considerable number of years forming part of a wider collection of buildings sited on Long Street, Wigston described as an "eyesore" with little heritage value. The Member also stated that the dwelling-flats' frontage was of bad-design and unsympathetic to the street-scene.

The Interim Planning Control Manager advised that the applicant's reasoned justification for the proposed demolition of the existing WMC building was its profound derelict state rendering it unsuitable for residential-conversation. It was said that access to the application site was to be re-constructed to an adoptable standard notwithstanding the private contractual nature of access arrangement between the applicant and the Trustees. It was said that all appropriate authorities and properties were duly notified, including the Civic

Society by way of weekly planning circular.

The Chair stated any proposed development ought to reflect the history of the existing WMC building in lieu of its proposed demolition.

The Vice-Chair enquired as to whom the legal proprietor of the access route to the Kingdom Hall was and, if it was not under applicant's ownership, whether: an encroachment upon the same would be committed by the applicant during construction access; if it was capable of being re-constructed to an adoptable standard; and if prospective dwelling-occupants enjoyed any rights of way. The Member re-iterated concerns as to: the inconsistency of the buildings' design within the street-scene and the implications to highway and pedestrian safety.

Councillor Mrs S Z Haq enquired as to whether all neighbouring properties were given sufficient notice about the application.

The Interim Planning Control Manager advised that all properties had been mailed directly and site notices displayed on nearby lampposts and the existing WMC building door concerning development's initial proposals and subsequent revisions.

DEFEATED THAT:

The application be permitted planning permission.

For 0
Against 6
Abstentions 4

Councillor G A Boulter moved and the Vice-Chair seconded the application for refusal of planning permission. The reasons for refusal were summarised as follows:

- (i) The proposed development does not respect the local character and patterns of development and is unsympathetic towards its surroundings (*contra* Core Strategy Policy 14);
- (ii) The proposed development does not reflect the prevailing quality, character and features of the landscape and townscape (*contra* Core Strategy Policy 15);
- (iii) The residual cumulative impact of the proposed development upon highway and pedestrian safety would be severe (*contra* Core Strategy Policy 4).

RESOLVED THAT:

The application be **REFUSED** planning permission.

For 6
Against 1
Abstentions 3

THE MEETING CLOSED AT 7.54 PM



CHAIR

THURSDAY, 19 JANUARY 2017

Agenda Item 6

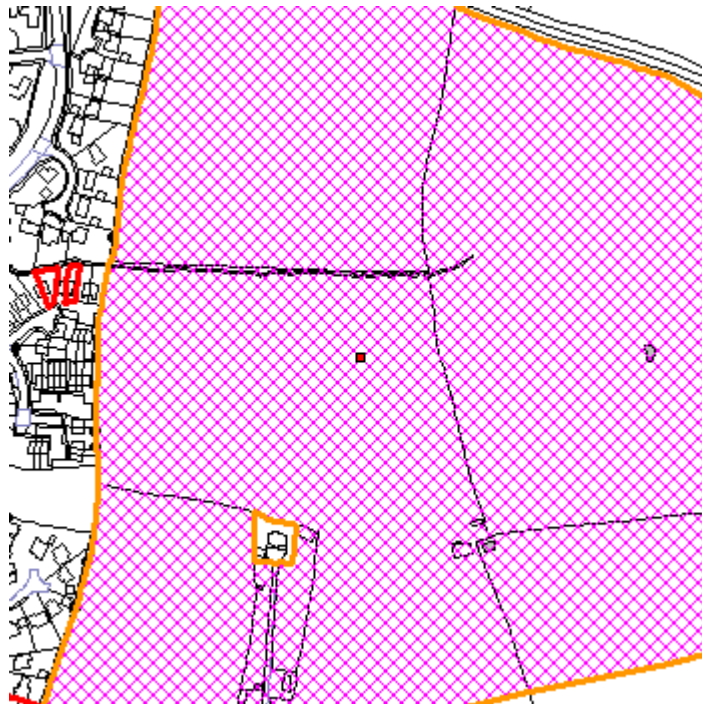
Application Number Address

Report Items

1. 16/00316/REM Land South
 Newton Lane
 Wigston
 Leicestershire

2. 16/00479/TPO 119 Saffron Road
 Wigston
 Leicestershire
 LE18 4UQ

1.	16/00316/REM	Land South Newton Lane Wigston Leicestershire
	4 August 2016	Reserved matters application for the residential development of 450 dwellings, open space, allotments, landscaping and storm water balancing and associated infrastructure on Land South of Newton Lane - pursuant to outline planning permission 13/00403/OUT.
	CASE OFFICER	Jon Imber



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Published 2014

Site and Location

The application site consists of approximately 26.7 hectares to the south of Newton Lane, Wigston. It comprises agricultural land on the south-western edge of the Leicester Principal Urban Area. The site lies approximately 1km south-west of Wigston Town Centre.

Surrounding land uses include residential properties to the west, residential properties and open countryside to the north, and open countryside to the east and south. The residential property at Spring Cottage Farm is enclosed by the application site, but is excluded from it.

Field boundaries predominantly consist of established hedgerows interspersed with mature trees. Boundary hedgerows are generally between 2.5 and 4 metres in height, but are noticeably lower towards the northern extent of the western site boundary, where they have been trimmed by neighbouring residents.

The site fronts Newton Lane to the north and Cooks Lane to the South. It is currently accessed via field gates from Newton Lane. There is a public footpath which crosses the southernmost field, which links Cooks Lane to an area of public open space to the south of Mablowe Field.

The topography of the site is gently undulating. It is bisected by a stream which runs along the southern boundaries of the two north-westernmost fields.

The nearest conservation area to the site the Grand Union Canal, which lies approximately 0.6km south of the site. The nearest listed building lies 0.8km away.

According to Environment Agency mapping, the site lies predominantly within Flood Zone 1, where the risk of fluvial flooding is less than 1 in 1000.

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 site benefits from outline planning permission for the erection of up to 450 dwellings, which was granted in February 2016 – subject to an extensive S106 obligation..

Description of proposal

This application seeks the approval of reserved matters for residential phase of outline planning permission 13/00403/OUT.

The application proposes:

- the erection of 450 dwellings;
- the provision of associated public open space, sports pitches and allotments;
- the formation of access onto Newton Lane via a new roundabout and associated internal estate roads; and
- associated landscaping, fencing and walling.

The proposed dwellings comprise a mixture of detached, semi-detached and terraced properties varying between two and three storeys in height. There are also twelve maisonettes and a single flat over a garage block. The dwellings are predominantly two storey buildings. Of the 450 dwellings to be provided on the site, 296 (66%) are two storey properties, 125 (27%) are two and a half storey properties, 16 (4%) are three storey properties and the remaining 13 (3%) are flats. The flats are contained within two storey buildings.

The development has a gross density of approximately 16.85 dwellings per hectare, and a net density of approximately 31.18 dwellings per hectare. The scheme proposes a mixture of 1,2,3,4 and 5 bed roomed properties with floor spaces varying between approximately 46m² and 235m². Of the 450 dwellings, 90 are to be affordable housing. This represents 20% of the total provision on the site.

The site is to be accessed via a new roundabout on Newton Lane to the north. The roundabout is situated to the south-west of the existing dwellings on the northern side of Newton Road. The internal estate roads are arranged around a central loop which runs around the northern part of the site with spurs serving the extremities of the site. An extended spur towards Cooks Lane provides access to the southern portion of the development. The application does not propose vehicular access onto Cooks Lane.

As required by the Section 106 agreement relating to the outline planning permission, a bus service will be routed through the site which will run around the central loop.

The proposals include two junior sports pitches to the south-east of Spring Cottage Farm, and an area of proposed allotments on the eastern edge of the site. The layout shows numerous areas of public open space throughout the development, including a swathe running along the line of the watercourse which crosses the site.

The application is accompanied by: -

- A **Sustainability Statement** as required by Condition 6 of the outline planning permission, which sets out measures to boost the sustainability credentials of the development including the retention of hedgerows and trees where possible, use of locally sourced and recyclable building materials where possible, and the incorporation of sustainable drainage techniques.
- A **Biodiversity Management Plan** as required by Condition 12 of the outline planning permission, which sets out measures for the retention and management of existing habitats as well as the creation of new habitats to maximise opportunities for wildlife.
- An **Archaeological Geophysical Survey** and Trial Trench Evaluation which identify that the development area lies in an area of sparse prehistoric activity and outside and pre-medieval settlement.

The statutory determination period for the application expired on the 3rd November 2016, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

13/00404/OUT – Mixed use development for up to 450 dwellings & 2.5 hectares of employment land (B1/B2) along with new formal recreation space with changing facilities, allotments, landscaping & storm water balancing & associated infrastructure – Conditionally approved February 2016

Outline planning permission 13/00403/OUT was granted subject to a Section 106 agreement which obligates the developer to provide affordable housing, open space and a community facility building on the site, and to pay contributions towards public transport (including subsidising a bus service through the site), libraries and improving facilities at local schools. These obligations all remain in force, together with the conditions attached to the outline planning permission.

Consultations

Wigston Civic Society – Raises concerns regarding the high density of the scheme and potential flooding. States that soft landscaping details, details of the bus route, the treatment of the public footpath and pedestrian access to the Wigston Harcourt estate are not clear. Seeks reassurance that the scheme complies with the Section 106 agreement attached to the outline permission. Considers that a public meeting should be held.

Leicestershire County Council (Highways) – Is satisfied that the proposals will not lead to severe impacts upon the highway network. Raises technical issues that will need to be considered before it will adopt the scheme, including details of traffic calming measures, and a preference for there being no verge or street trees within the highway and for raised tables to be tarmaced rather than block paved.

Representations

Neighbours have been informed and three notices placed adjacent to the site. The proposals have also been publicised in the local press. 29 letters of representation have been received at the time of writing this report.

The date for the receipt of comments expired on the 23rd September 2016.

The reasons for objection can be summarised as follows: -

- Newton Lane is already congested and cannot cope with the additional traffic that would be generated by the development. A single access point is inadequate for a development of this size.
- Vehicle speeds on Newton Lane are high and traffic calming measures should be put in place.
- Local schools are at capacity and the development will increase pressure on them. It was initially suggested that a school would be built on the site.
- Increased waiting times for local GPs
- Devaluation of property and increased difficulty in selling. Compensation should be granted.
- Loss of privacy and overshadowing. There is a significant difference in levels between the site and existing properties to the west.
- Disturbance during construction. Working hours should be stipulated by condition. The Guthlaxton Road will not be able to cope with heavy lorries.
- Increased flood risk. The stream swells significantly during rainfall and increasing the amount of built development in its catchment will exacerbate this.
- The proposal would be out of character with its surroundings
- The development is too large
- It is not a good idea to have affordable housing and its parking areas so close to 4 or 5 bedroom properties. They should be located within the development rather than on the edge.
- Impact on wildlife. Additional surveys should have been carried out
- The parking courts behind existing residential properties could quickly become run down and used as play areas/meeting places for young people
- The provision of flats is out of keeping with the existing housing stock in Wigston Harcourt and does not provide a suitable environment for young families.
- The balancing ponds proposed will rarely contain any water and will be stagnated, foul smelling and a health and safety hazard.
- The plans shown an encroachment onto our eastern boundary
- The football pitches are too close to my property and will cause problems with noise and antisocial behaviour.
- The scheme does not provide any infrastructure for residents.
- Loss of countryside when there are brownfield sites available.
- Boundary fencing should be provided to the properties on Blackwell Close
- The hedgerow along the western site boundary should be protected.
- We had been assured that no three storey properties were proposed on the site
- Lifetime homes should be provided on the site
- It is essential that properties are energy efficient
- A bus service should be routed through the site
- Footpaths should be provided to encourage walking
- The density of the scheme appears high
- A youth and community centre should be provided

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 7: The Countryside

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

Developer Contributions Supplementary Planning Document

Residential Development Supplementary Planning Document

Planning Considerations

The site benefits from outline planning permission for the erection of up to 450 dwellings, which was granted in February 2016. The outline application included details of the means of access to the site. As such, the principle of erecting 450 dwellings on the site accessed via Newton Road is established.

It should be noted that the developer must comply with the Section 106 agreement and any conditions attached to the outline planning permission.

This application seeks approval of matters reserved by the outline application, namely the layout of the site, the scale and appearance of the proposed dwellings and landscaping.

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

- The impact of the proposal upon the character and appearance of its surroundings
- The impact of the proposal on neighbouring residential properties.
- The impact of the proposal upon the safe and efficient use of the highway network
- Other issues including flood risk and protected species

The impact of the proposal upon the character and appearance of its surroundings

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.

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

The application site comprises agricultural land on the south-eastern 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 site is viewed in the context of the existing built development on the edge of the urban area, which reduces its sensitivity in landscape character terms. The proposed layout demonstrates that the applicant has taken care to assimilate the site into the landscape, with the incorporation of buffer

zones consisting of public open space and allotments on the rural fringe to the east, and the retention where possible of hedgerows and key trees.

Any 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 eastwards. 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 net density of approximately 31 dwellings per hectare, which strikes an appropriate balance between the desirability of making efficient use of building land and preserving the character of the rural 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 and the surrounding countryside. Within the site, dwellings have been arranged to create well defined spaces, with individual units sited to terminate views into and within the development. A range of parking solutions has been employed to prevent a dominance of frontage parking.

Individual dwellings have been designed to have a fairly traditional character and appearance. They are predominantly fairly simple in massing and form, with a traditional material palette consisting of principally red facing brickwork, light coloured render and dark tiled roofs. This traditionally inspired design approach is considered appropriate to context.

Permeability through the scheme is achieved via a hierarchy of streets. These vary in character from a principal avenue which acts as a main route through the site, flanked by grass verges with street trees and buildings spaces to give a character or openness, to narrower lanes and private drives with a more intimate character. This clear hierarchy promotes legibility.

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 site adjoins existing residential properties to the west. The proposed dwellings are sufficiently distant from existing properties to avoid causing them unacceptable loss of daylight. Furthermore, the windows of the proposed houses are generally sufficiently distant from existing dwellings and their garden areas to avoid resulting in unacceptable loss of privacy. Potential exceptions to this are at Plots 3, 49 and 244 where flank windows could overlook part of the existing gardens to the west. It is therefore recommended that the flank windows on these plots be obscure glazed. This can be secured by condition.

The dwellings to the north 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 proposed sports pitches lie over 35 metres from the existing dwelling at Spring Cottage Farm. It is not considered that children playing on the pitches would cause levels of noise or disturbance that would unacceptably affect the amenities enjoyed by its occupants.

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 Highway Authority is satisfied that the proposals would not cause severe impacts on the highway network, and that they are therefore NPPF compliant.

With regard to the technical issues raised by the Highway Authority, a meeting was held at the County Hall which was attended by the applicants design team, representatives of the Highway Authority and the case officer. At the meeting it was concluded that the technical issues raised by the Highway Authority can all be satisfactorily addressed, allowing the scheme to be adopted. Fundamentally, the Highway Authority will accept street trees and verges within the highway, as well as block raised tables as required by the scheme's design guide since the applicant has agreed to provide for their future maintenance over time.

The comments of local residents regarding the impact of traffic generated by the development, particularly on Newton Lane, are noted. However, the outline planning permission granted in February 2016 approved both the principle of erecting 450 dwellings on the site, and the access onto Newton Road. As such those issues fall outside the scope of this application for the approval of reserved matters. It should, however, be noted that the outline planning permission secures off-site highway works and a subsidised bus service through the site.

Other issues including flood risk and protected species

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.

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 impacts of the proposals upon flooding and ecology were considered in detail at outline stage and have been addressed via conditions attached to the outline planning permission. In particular, Condition 17 of the outline planning permission requires the implementation of a sustainable drainage system, and makes provision for its subsequent maintenance.

The concerns raised by local residents regarding devaluation of property do not constitute a material planning consideration and as such cannot be given any weight in the determination of this application.

Concerns have also been raised by local residents regarding increased pressure on local services and infrastructure. Such impacts are a matter for consideration at outline rather than reserved matters stage. The outline planning permission establishes the principle of erecting 450 dwellings on the site, and as such this application for reserved matters cannot be resisted on the grounds that this level of development would impact upon local services. It should be noted that the outline planning permission secures contributions towards improving local schools and libraries to ensure that they have capacity to accommodate the increased demand generated by the proposed new houses.

In response to the objections raised regarding encroachment onto neighbouring land, the applicants have confirmed that their ownership extends to the whole of the application site.

Conclusion

The principle of erecting 450 dwellings on the site with access via Newton Lane is established by Outline Planning permission 13/00403/OUT dated 19th February 2016.

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: GRANTS

Subject to the following condition(s)

- 1 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.
- 2 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.
- 3 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

Development Control Committee Meeting
19 January 2017

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.

- 4 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.

- 5 Any first and second floor windows in the west elevations of Plots 31, 49 and 244 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 properties and in accordance with Landscape Proposal 1 and Housing Proposal 17 of the Oadby and Wigston Local Plan.

2.	16/00479/TPO	119 Saffron Road Wigston Leicestershire LE18 4UQ
	21 October 2016	Removal of TG1 (Oak) due to subsidence.
	CASE OFFICER	Henry Pearson



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Published 2014

Site and Location

119 Saffron road is situated to the rear of the applicants property, 1 Moores Close, South Wigston Leicestershire, LE18 4WT. Moores Close is situated just off an old MOD housing estate west of Saffron Road, the area is one of few areas within South Wigston which has substantial tree cover, and is under consideration for a Local Greenspace Designation. The area has a wide variety of native mature trees combined with amenity grassland. South of the site are Government buildings and MOD properties, the north of the site leads through the housing and open spaces into Eyres Monsell Park (Leicester City Council)

Description of proposal

Fell Mature Oak Tree (TG1- 119 Saffron Road) in response to the subsidence of a conservatory at the rear of 1 Moores Close.

The statutory determination period for this application expires on the 16.12.2016, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

15/00015/TPO - Removal of T3 to reduce and mitigate effects of subsidence. – Returned 30.08.2016

16/00378/TPO - Removal of T3 to reduce and mitigate effects of subsidence. – Refused 22.09.2016

Consultations

OWBC Building Control - According the NHBC a strip foundation in medium shrinkage soil would be 0.90m minimum foundation depth where the site ground conditions are not influenced by trees.

OWBC Tree Warden –

- The application is poor, confused and contradictory to itself
- The foundations of the conservatory do not meet NHBC standards
- Crawford 2016 addendum recommends underpinning works to be undertaken if permission T3 was refused.
- The oak tree is mature and healthy and provides substantial amenity
- Roots found in the bore holes are insignificant to justify the removal of the oak. Correlation is not causation.
- 3-4 Large broadleaved trees have been felled already in response to letters sent out from the insurance company.
- Evidence of damage is 4 years out of date.
- Other casual factors have not been ruled out.
- The conservatory has been built over a shared drain, with shallow foundations and no keyed in brickwork.

Representations

Neighbours have been informed and a press/site notice placed with no letters of representation being received at the time of writing this report. The date for the receipt of comments expires on the 21 November 2016.

Neighbours have been informed and a notice placed with 2 letters of representation (from 2 properties) being received at the time of writing this report.

The date for the receipt of comments expired on the 21 November 2016

The reasons for objection can be summarised as follows: -

- The Oak tree (TG1) is a very large, beautifully shaped and mature tree which enhances the rear gardens along Crete Avenue and the views from Crete Avenue.
- 4No. Mature trees and 1No. Leylandii hedge have been removed from the immediate or immediately adjacent properties in response to the subsidence, yet the conservatory still subsides, no more trees should be removed/amenity lost for the conservatory.

- I have spoken at length to my neighbours re: the above matter and, indeed, have great sympathy with their situation. However I do love trees which enhance this district and the wildlife it contains. Therefore if it is definitely proved that this tree is causing the problem I do not object but if there is no definite proof, I do.

Relevant Planning Policies

National Planning Policy Framework

Oadby & Wigston Core Strategy

Core Strategy Policy 5:

Oadby and Wigston Local Plan

Planning Considerations

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

- The impact of the proposal on the street scene
- The impact of the proposal on neighbouring residential properties.

The impact of the proposal on the street scene

The tree is readily visible from the green space between Crete Avenue and Hindoostan Avenue as well as a large section of Saffron Road. The tree forms part of the cohesive canopy cover that softens the view of the industrial estate, west of Saffron Road, when entering the borough. The depletion of this canopy cover is something that should be resisted as the visual amenity is very important as Saffron Road is one of the main routes into and out of the borough.

The impact of the proposal on neighbouring residential properties

The tree is readily visible from no less than 18 properties around it's locale. The neighbours have already lost the amenity from 4 mature trees in relation to the subsidence of the conservatory. The tree is also a valuable source of sustenance and shelter for local wildlife, as well as acting as a carbon sink. The area also benefits from the disruption, translocation and dissipation of storm water provided by in part by this tree and it's neighbouring trees.

Conclusion

The applicant MWA Arboriculture has applied to remove a large mature *Quercus robur* (T2 Oadby and Wigston Borough Council Wigston (Saffron Road) (No.1) Tree Preservation Order 1983) from the property of 119 Saffron Road, South Wigston in response to a claim of subsidence of a conservatory on the adjacent property of 1 Moores Close, South Wigston.

T2 has been risk assessed using the T.H.R.E.A.T.S. (Tree Hazard: Risk Evaluation and Treatment System (Forbes-Laird Arboricultural Consultancy 2010)) method, the tree has a risk factor of 0.8 which equates to a risk category of Insignificant. Therefore the tree is deemed safe.

Further to this the tree has been valued using the CAVAT method, the resultant value of the tree being calculated at £57,301.

This is the third application received by Oadby and Wigston Borough Council for the removal of trees from the immediate or adjacent areas to the property in connection with the subsidence of the conservatory.

The first application was received on the 15.01.2015 (Mrs T. Wells, 7 Crete Avenue 15/00015/TPO) the application was made in response to a letter (dated 19.10.2012) sent to the neighbours of 1 Moores Close, the letter stated that Crawford & Company Adjusters (UK) LTD, are dealing with a subsidence claim and that T3 Contorted Willow is a potential threat and that whilst they do not consider the vegetation to be part of the claim, the owners should remove the tree as they could be held liable for future damage. This application was never validated as it was incomplete. The application was returned on 30.08.2016.

The Second application was received 22.08.2016 (MWA Arboriculture) again applying for permission to remove T3 Contorted Willow. Oadby and Wigston Borough Council Refused the application on 22.09.2016 on the grounds that the conservatory's foundations were built far below the standards set out in the NHBC Standard 4.2 (Building Near Trees). As the foundations of the structure fall roughly ¼ as deep as the standards state, combined with the fact the structure is not keyed into the existing brick work as well as the previous removal of 1No. large Sycamore from 155 Saffron Road and at least 3No. Mature trees from 119 Saffron Road, all in response to the letter and report sent by Crawford & Company in 2012 (referenced above). It was determined that any further removal of trees would have a noticeable and detrimental effect to the visual and ecological amenity of the area.

The evidence submitted in the reports by MWA Arboriculture on behalf of Crawford and Company do show proof that there is subsidence in the property however the cause of the subsidence cannot from the evidence submitted be solely attributed to the tree, whilst the evidence suggests the tree may play a role in the natural shrinkage and heave of the clay soil, the fact remains that the conservatory is moving because it is on shallow foundations and not substantially fixed to the building, the removal of this tree will in all likelihood have very little effect upon the movement of the conservatory. The Factual Report (27.04.2015) states that there is a displaced joint within the drainage system underneath the conservatory; this is not addressed within the subsidence report which focuses on the removal of the trees as the main management. The selection of tree to be felled has been inconsistent with the recommendations made in the reports. The earliest arboricultural report (2012) does detail, Oak (TG1), to be removed however in the more recent report (2015) it is recommended to reassess the tree after the removal of T3. As permission was refused for T3 to be removed the applicant has applied to remove Oak (TG1) with no further assessment.

In this case remedial and structural works to the conservatory would be the more appropriate remedy to the issue.

Implications Statement

Health	No Significant implications
Environment	No Significant implications, however minor loss of habitat for both flora and fauna may have an impact should the application be permitted
Community Safety	No Significant implications
Human Rights	There are no significant implications as removal of the tree is only one of many options to remediate the damage.
Equal Opportunities	No Significant implications
Risk Assessment	No Significant implications
Value for Money	No Significant implications
Equalities	No Significant implications
Legal	The council may be liable for further damage to the property should the tree be identified as the main cause of the subsidence.

RECOMMENDATION: REFUSE

The Reason(s) for refusal are:

- 1 The application and associated reports do not give enough evidence to justify that the tree is the main and pivotal factor in the subsidence of the conservatory and that the loss of amenity cannot therefore be substantiated;
 - The reports show that the foundation depth of the conservatory are far below the recommended foundation depths set out in NHBC Standard 4.2 (Building Near Trees)

- Other casual factors have not been fully investigated - notably the displaced drainage joint less than 2m away from the conservatory.
- The removal of 4No. Mature trees and 1No. Leylandii hedge from the site and adjacent sites have been shown to have no positive effect on the movement of the structure

BACKGROUND PAPERS

16/00316/REM

16/00479/TPO

