



**TO COUNCILLOR:**

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

B Dave  
D A Gamble  
J Kaufman  
Mrs L Kaufman  
Dr T K Khong

Mrs H E Loydall  
R E R Morris  
R H Thakor

Dear Sir or Madam

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, 24 MAY 2018** at **7.00 PM** for the transaction of the business set out in the Agenda below.

Yours faithfully

Council Offices  
Wigston  
**16 May 2018**

**Mrs Anne E Court**  
Chief Executive (Interim)

<u>ITEM NO.</u>	<u>AGENDA</u>	<u>PAGE NO'S</u>
<b>1.</b>	<b>Apologies for Absence</b>	
<b>2.</b>	<b>Declarations of Interest</b>	
	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'.	
<b>3.</b>	<b>Minutes of the Previous Meeting held on 15 March 2018</b>	<b>1 - 3</b>
	To read, confirm and sign the minutes of the previous meeting in accordance with Rule 17 of Part 4 of the Constitution.	
<b>4.</b>	<b>Petitions and Deputations</b>	
	To receive any Petitions and, or, Deputations in accordance with Rule 24 of Part 4 of the Constitution.	
<b>5.</b>	<b>Planning Appeals Update (2015-2017)</b>	<b>4 - 14</b>
	Report of the Planning Control Team Leader	
<b>6.</b>	<b>Planning Enforcement Activity Report (2017/18)</b>	<b>15 - 17</b>



Report of the Planning Enforcement Officer

**7. Felling Licences and Protected Trees 18 - 20**

Report of the Arboricultural Officer

**8. Report of the Planning Control Team Leader 21 - 61**

In accordance with Rule 14.1 of Part 4 of the Constitution, a motion needs to be proposed and seconded before the Committee can debate a planning application. This is an administrative process designed to assist the Chair to manage the meeting effectively and efficiently. This is not an indication of how the proposer and seconder intend to cast their votes at the conclusion of the debate. Members can only make a decision once they have considered the content of the debate and all of the information in front of them.

- a) **Application No. 17/00495/FUL - 39 Long Street, Wigston, Leicestershire, LE18 2AJ**
- b) **Application No. 18/00045/FUL - 28 Davenport Avenue, Oadby, Leicestershire, LE2 5HP**
- c) **Application No. 18/00047/FUL - 19 Welford Road, Wigston, Leicestershire, LE18 3SP**
- d) **Application No. 18/00098/FUL - Land to the Rear of 125 Stoughton Road, Oadby, Leicestershire, LE2 4FS**

**For more information, please contact:**

**Planning Control**  
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LE18 2DR

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**MINUTES OF THE MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT THE  
COUNCIL OFFICES, STATION ROAD, WIGSTON ON THURSDAY, 15 MARCH 2018  
COMMENCING AT 7.00 PM**

**PRESENT**

Councillor L A Bentley (Chair)

**COUNCILLORS**

G A Boulter  
D M Carter  
B Dave  
J Kaufman  
Mrs L Kaufman  
Mrs H E Loydall  
R E R Morris  
R H Thakor

**OFFICERS IN ATTENDANCE**

D M Gill (Head of Law & Governance / Monitoring Officer)  
Ms S Lane (Democratic Services Officer / Compliance Officer)  
R Redford (Planning Control Team Leader)

**OTHERS IN ATTENDANCE**

Cllr M H Charlesworth (Ward Councillor, Speaker)

**56. APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillors Mrs L M Broadley, F S Broadley, D A Gamble and Dr T K Khong.

**57. DECLARATIONS OF INTEREST**

In respect of application no. 17/00539/OUT, the Chair advised the Committee that he did visit the display which the applicants held in the Rugby Club. He confirmed that he attended the meeting without prejudice and with an open-mind and that he did not enter into any discussions with anyone else present at the meeting.

**58. MINUTES OF THE PREVIOUS MEETING HELD ON 15 FEBRUARY 2018**

By affirmation of the meeting, it was

**UNANIMOUSLY RESOLVED THAT:**

**The minutes of the previous meeting of the Committee held on 15 February 2018 be taken as read, confirmed and signed.**

**59. PETITIONS AND DEPUTATIONS**

None.

**60. REPORT OF THE PLANNING CONTROL TEAM LEADER**

**60a. APPLICATION NO. 17/00539/OUT - LAND SOUTH OF ST PETTROX NURSERY, WELFORD ROAD, WIGSTON, LEICESTERSHIRE**

Councillor M H Charlesworth, Ward Councillor for the All Saints Ward, spoke upon the application. He raised various points for consideration including the reduction of the speed limit from 40mph to 30mph between Wigston and Kilby Bridge, a safe crossing point from the Harcourt Estate to the proposed access to the school, the noise issue of the adjacent landowner and that any section 106 monies contribution to sport provision is only used for Horsewell Lane and/or Willow Park, Wigston.

The Committee gave consideration to the report (at pages 4 - 27) as delivered and summarised by the Planning Control Team Leader which should be read together with these minutes as a composite document.

A debate thereon was had by Members raising a number of potential concerns including the provision of school / school places. The local schools have very little scope for expansion and with the new developments being under the 500 homes threshold no new provision is being provided. Members were directed to the section of the report entitled section 106 obligations (at page 18) stating that the developer would be required to pay a set amount towards primary education.

Concerns were also voiced over the current 40mph speed limit and for it to be reduced to 30mph before a serious incident occurs.

Members also raised concerns in relation to flooding in the area. It was noted that on page 8 of the report that the Leicestershire County Lead Local Flood Authority have not raised any issues, however, on the plans shown to the Committee, the area highlighted with blue does flood and was flooded on the day of the meeting.

A further area of concern was the lack of affordable housing, especially for first time buyers, as another developer in our Borough were currently marketing two bedroom town houses for over £200k.

On page 7 of the report, under Archaeological Services, it stated that no archaeological investigations are required, however, previously on this land two gold coins and an intact Roman vase have been discovered.

A proposal for a crossing at this site has previously been requested but rejected by Leicestershire County Council.

On photographs displayed by the Planning Control Team leader as part of his report, the site land clearly shows many furrows which would need to be investigated prior to the start of any building works. Also, concerns were raised in relation to wildlife in particular newts and bats and retention of hedgerows as highlighted (at page 7) of the report under heading Ecology. Questions were raised as to how the Council enforce this and how homeowners would be aware.

The Head of Law & Governance reassured the Committee that the applicant has indicated that they would fund a Traffic Regulation Order in relation to the speed reduction and that there was no intention to build on the area on the plan edged with blue and as the Section 106 Agreement was still in discussion we can take forward the issue of affordable housing. He also advised that the developers would have a legal responsibility under the Wildlife and Countryside Act and that tonight we are only seeking to grant outline planning permission and that full consent cannot be granted until the Section 106 has been fully

agreed and sealed by the Council. In relation to the hedgerows it was stated that if they were removed then the homeowner could be prosecuted and that they would be aware via searches undertaken by their conveyancing solicitor.

It was moved by the Chair, seconded by Councillor D M Carter

**RESOLVED THAT:**

**The application be GRANTED outline planning permission in accordance with the submitted documents and plans and subject to the prescribed conditions.**

<b>Votes For</b>	7
<b>Votes Against</b>	1
<b>Abstentions</b>	1

**60b. APPLICATION NO. 18/00006/TPO - BEAUFORT WAY SPINNEY, BEAUFORT WAY, OADBY, LEICESTER**

The application withdrawn by applicant on 13 March 2018.

**THE MEETING CLOSED AT 7.57 PM**



.....  
**Chair**  
.....

**Thursday, 24 May 2018**  
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Council Offices, Station Road, Wigston, Leicestershire, LE18 2DR*

# Agenda Item 5



<b>Development Control Committee</b>	<b>Thursday, 24 May 2018</b>	<b>Matter for Information</b>
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**Report Title:** **Planning Appeals Update (2015-2017)**

**Report Author(s):** **Richard Redford (Planning Control Team Leader)**

<b>Purpose of Report:</b>	To provide a yearly summary of those planning applications (including consent based submissions) and planning enforcement related notices which have been challenged at appeal.
<b>Report Summary:</b>	The Council's breakdown for appeals dismissed / allowed for the last 3 years is as follows: 2015 - 57.2% dismissed / 42.8% allowed; 2016 - 76.9% dismissed / 23.1% allowed; and 2017 - 60% dismissed / 40% allowed. From these figures, the Council is above the 10% Government target for appeals being allowed.
<b>Recommendation(s):</b>	<b>1. The contents of the report and appendices be noted.</b>
<b>Responsible Strategic Director, Head of Service and Officer Contact(s):</b>	<p>Stephen Hinds (Director of Finance &amp; Transformation) (0116) 257 2681 <a href="mailto:stephen.hinds@oadby-wigston.gov.uk">stephen.hinds@oadby-wigston.gov.uk</a></p> <p>Adrian Thorpe (Head of Planning, Development and Regeneration) (0116) 257 2645 <a href="mailto:adrian.thorpe@oadby-wigston.gov.uk">adrian.thorpe@oadby-wigston.gov.uk</a></p> <p>Richard Redford (Planning Control Team Leader) (0116) 257 2654 <a href="mailto:richard.redford@oadby-wigston.gov.uk">richard.redford@oadby-wigston.gov.uk</a></p>
<b>Corporate Priorities:</b>	Effective Service Provision (CP2) Balanced Economic Development (CP3)
<b>Vision and Values:</b>	Accountability (V1) Customer Focus (V5)
<b>Report Implications:-</b>	
Legal:	The failure to provide robust decisions for planning refusals exposes the LPA to the risk of appeals and adverse costs orders on appeal to the PI, as well as of being put into Special Measures.
Financial:	Cost implications would exist where costs are awarded against the Council by the PI for unreasonably refusing an application.
Corporate Risk Management:	Decreasing Financial Resources (CR1) Reputation Damage (CR4) Regulatory Governance (CR6)
Equalities Assessment (EA):	Not applicable.
Human Rights:	There are no implications directly arising from this report.

<b>Statutory Officers' Comments:-</b>	
Head of Paid Service:	The report is satisfactory.
Chief Finance Officer:	The report is satisfactory.
Monitoring Officer:	The report is satisfactory.
<b>Consultees:</b>	Not applicable.
<b>Background Papers:</b>	None.
<b>Appendices:</b>	<b>A.</b> 2015 Appeals List <b>B.</b> 2016 Appeals List <b>C.</b> 2017 Appeals List

## **1. Introduction**

- 1.1 This report relates to appeal decisions made by the Planning Inspectorate (PI) in relation to various planning related development control decisions comprising formal submissions and planning enforcement.
- 1.2 As Members are aware, the Council as Local Planning Authority (LPA) is monitored on its performance in the determination of planning submissions on a quarterly-basis with the expectation that the Council exceeds targets set by Central Government.
- 1.3 The same applies to planning appeals where the Council is expected to successfully defend 90% or more of planning appeals against its decisions. Failure to successfully defend its decisions at appeal has a high potential for the Council to be made a 'Standards Authority' and put into Special Measures where the ability to make decisions on planning applications is 'removed' from the Council.
- 1.4 Due to the low numbers of planning applications handled by the Council in its role as LPA, there is a need to ensure that refusals of planning permission can be robustly defended at appeal to ensure less than 10% are allowed thus avoiding the risk of the Council being placed in Special Measures.
- 1.5 The purpose of this report is to provide a yearly summary of those planning applications (including consent based submissions) and planning enforcement related notices which have been challenged at appeal.
- 1.6 It provides details of site address, development, Local Planning Authority's (LPA) decision and the level at which the decision was made, the Planning Inspectorate's (PI) decision and, where applicable, any costs that were awarded on the appeal for or against the LPA.

## **2. Information**

- 2.1 As set out in paragraph 1.3 above, the failure of the Council as LPA to defend 10% or more of the planning and planning related appeals it receives can result in it being put into Special Measures where its ability to determine planning applications is taken out of its hands. It is therefore important that as a Council monitors its appeal decisions and are aware of how its appeal figures could influence its future ability to make planning decisions. This report details for the last 3 calendar years the appeals received and determined by the PI with other relevant information.
- 2.2 There are decreasing financial resource implications where costs are awarded against the

Council on an appeal allowed by PI, and potentially falling income through lost planning application fees should the Council be placed in Special Measures and lose the ability to both handle and determine planning and related submissions.

- 2.3 The Council being placed in Special Measures would also affect its ability to deliver effective service provision as it wouldn't be able to determine planning and related applications, together with the Council's ability being hindered to provide balanced economic development.
- 2.4 The Council being placed in Special Measures would impact on its accountability as it wouldn't be determining the planning, and related, applications it currently determines and, as such, would be unable to take account of both applicants and residents representations should the planning function be removed, thus removing customer focus.

### **3. Planning Appeals in 2015**

3.1 **Appendix A** to this report provides details in respect of relevant planning-related appeals in 2015. A total of 8 appeals were submitted to the PI as follows:

- 2 related to Enforcement Notices with 1 being withdrawn prior to determination of the appeal by the PI while the other appeal was allowed; and
- Of the 6 appeals relating to planning applications, 4 were dismissed and 2 were allowed. 4 of these 6 were refused under delegated powers with all 4 being dismissed.
- The 2 that were allowed were both Committee decisions, 1 of which the Committee agreed with the Officer recommendation to refuse while the other was refused against Officer recommendation.

3.2 2 applications for award of costs were submitted against the Council on these 8 appeals. 1 was dismissed totally while in the second, a partial award was granted against the Council.

### **4. Planning Appeals in 2016**

4.1 **Appendix B** to this report provides details in respect of relevant planning-related appeals in 2016. A total of 13 appeals were submitted to the PI as follows:

- 3 of these related to Enforcement Notices with all 3 being dismissed and the Enforcement Notices upheld without amendment; and
- Of the 10 appeals against planning decisions, 3 were allowed with the remaining 7 being dismissed. All of the planning-related appeals followed decisions made under delegated powers.

4.2 No applications for costs were made by or against the Council in 2016.

### **5. Planning Appeals in 2017**

5.1 **Appendix C** to this report provides details in respect of relevant planning-related appeals in 2017. A total of 10 appeals were submitted to the PI as follows:

- 1 related to an Enforcement Notice which was dismissed with the notice upheld. A costs application by the Council, as LPA, was dismissed on this appeal; and
- Of the 9 planning decisions appealed, 4 were allowed and 5 were dismissed. 5 of the 9 were determined under delegated powers, with the remaining 4 determined by Committee of which all 4 were against Officer recommendation.

5.2 A total of 4 applications for costs were determined by the PI on these 10 appeals. 2 of these 4, including 1 in respect of the Enforcement Notice made by the Council as LPA, were



dismissed with the other 2 allowed against the Council as LPA. Collectively, the costs awarded against the Council in these 2 appeals totalled £4,740.

## **6. Conclusion**

6.1 Taking account of the Government target of less than 10% of appeals being allowed the Council's breakdown for the last 3 years is as follows:

- 2015 - 57.2% dismissed and 42.8% allowed (excludes the 1 withdrawn);
- 2016 - 76.9% dismissed and 23.1% allowed; and
- 2017 - 60% dismissed and 40% allowed.

6.2 It can be seen from these figures that the Council is above the 10% Government target for appeals being allowed.

6.3 There is a continual on-going need for careful consideration including the use of professional advice by Officers and consultees at both delegated and Committee levels in the determination of planning and related submissions to ensure that where a submission is refused, it can be successfully defended at appeal.

6.4 Furthermore, where costs are awarded against the Council on an appeal allowed by the PI and potentially falling income through lost planning application fees should the Council be placed in Special Measures and lose the ability to both handle and determine planning and related submissions.

**APPENDIX A - 2015 APPEALS**

<b>Appeal Site Location</b>	<b>Description of Development</b>	<b>Planning Ref Numbers (application / enforcement and appeal) PINs Reference Number</b>	<b>LPA Decision Date of LPA Decision Del / Com Type of Appeal</b>	<b>Appeal Outcome &amp; Date</b>
20 The Pastures, Oadby, Leicester, LE2 4QD	The unauthorised change of use of a residential dwelling (use class C3) to an office building (use class B1).	14/00098/UNAWKS APP/L2440/C/15/3002747	Enforcement Notice 19 December 2015 Delegated Enforcement Notice WR	Appeal allowed on (f) and (g) – notice varied. 16 June 2015 Partial award of costs against LPA
Domino's Pizza, 73 Leicester Road, Wigston, LE18 1NR	Section 73 application to vary condition 1 of application 06/00232/VAC to extend trading hours to 09:00 to 01:00 seven days a week	14/00389/VAC (application) 15/00002/REF (appeal) APP/L2440/W/15/3002591	Refusal 4 November 2014 Delegated Written Representations	Dismissed 27 <sup>th</sup> May 2015
71 – 95 Most Street, Wigston, Leicestershire, LE18 2GE	Section 73 application to vary condition 25 of application reference 13/00119/FUL to extend trading hours to 07:00 to 23:00 seven days a week including Bank Holidays	14/00250/VAC (application) 15/00003/REF (appeal) APP/L2440/W/15/3004117	Refusal 21 October 2014 Committee (overturn) Written Representations	Allowed 8 June 2015 Costs dismissed against Council
23 Horndean Avenue, Wigston, Leicestershire, LE18 1DP	Two storey side extension	15/00064/FUL (application) 15/00004/HAS (appeal) APP/L2440/D/15/3130734	Refusal 14 April 2015 Delegated HAS	Dismissed 7 December 2015
5 Gorse Lane, Oadby, Leicestershire,	Erection of a new dwelling and garage on land to the front	15/00137/FUL (application) 15/00005/REF (appeal) APP/L2440/W/15/3129810	Refusal 19 June 2015 Delegated	Dismissed 12 January 2016

LE2 4RR			Written Representations	
Piece of / parcel of land at 2 Clifford Street, Wigston, Leicestershire, LE18 4SH		APP/L2440/C/15/3139322	Issue EN  Written Representations	Notice Withdrawn
4 Southmeads Road, Oadby Leicestershire LE2 2LS	Retention of two storey summer room and store and free standing sun shelter	14/00491/FUL (application) 15/00007/REF (appeal) APP/L2440/D/15/3139276	Refusal 3 September 2015 Committee (with) Written Representations	Allowed 23 February 2017
199 Glen Road, Oadby, Leicestershire,	Erection of a detached bungalow with associated car parking, landscaping and boundary treatment	15/00351/FUL (application) 15/00006/REF (appeal) APP/L2440/W/15/3136814	Refusal 7 October 2015 Delegated Written Representations	Dismissed 23 February 2016

- Summary : 8 appeals
- 3 allowed
    - 1 Enforcement Notice
    - 2 Committee
      - 1 with recommendation
      - 1 Committee overturn
  - 4 dismissed
  - 1 withdrawn
  - 2 costs decision
    - o 1 partial cost against the LPA
    - o 1 costs dismissal

**APPENDIX B - 2016 APPEALS**

<b>Appeal Site Location</b>	<b>Description of Development</b>	<b>Planning Ref Numbers (application / enforcement and appeal) PINs Reference Number</b>	<b>LPA Decision Date of LPA Decision Del / Com Type of Appeal</b>	<b>Appeal Outcome &amp; Date</b>
17 Fludes Court, Oadby, Leicester, LE2 4QQ	Without planning permission the change of use of the garage premises at 17 Fludes Court, Oadby. LE2 4QQ from a residential annexe to an independent dwelling (now numbered 17a).	APP/L2440/C/16/3143449	Enforcement Notice  Written Reps.	Appeal dismissed – notice upheld 20 May 2016
17 Fludes Court, Oadby, Leicester, LE2 4QQ	Without planning permission the change of use of the garage premises at 17 Fludes Court, Oadby. LE2 4QQ from a residential annexe to an independent dwelling (now numbered 17a).	APP/L2440/C/16/3143448	Enforcement Notice  Written Reps	Appeal dismissed – notice upheld 20 May 2016
17 Fludes Court, Oadby, Leicester, LE2 4QQ	Without planning permission the change of use of the garage premises at 17 Fludes Court, Oadby. LE2 4QQ from a residential annexe to an independent dwelling (now numbered 17a).	APP/L2440/C/16/3143287	Enforcement Notice  Written Reps.	Appeal dismissed – notice upheld 20 May 2016
Land adjacent to 69 Manor Road, Oadby, Leicester, LE2 2SB	Erection of a detached two storey dwelling.	15/00320/FUL (application) 16/00001/REF (appeal) APP.L2440/W/16/3142281	Refusal 26 November 2015 Delegated Written Reps	Dismissed 19 May 2016
82 Stoughton Road,	Erection of a two storey rear extension	13/00477/FUL (application)	Refusal	Dismissed

Oadby, Leicester, LE2 4FN	and single storey side and rear extensions (Application Revision D)	16/00002/HAS (appeal) APP/L2440/D/16/3147788	6 January 2016 Delegated HAS Written Reps	1 June 2016
52 Park Road, Wigston, Leicester, LE18 4QD	Demolition of existing bungalow and erection of replacement detached dwelling with integral double height garage.	16/00125/FUL (application) 16/00004/REF (appeal) APP/L2440/W/16/3150571	Refusal 9 May 2016 Delegated Written Reps	Dismissed 30 August 2016
23 Whitebeam Road, Oadby, Leicester, LE2 4EA	Erection of a two storey side extension, single storey rear extension and demolition and reconstruction of detached garage including change of use of land at the side of site from public open space to land within the curtilage of a dwelling house.	15/00385/FUL (application) 16/00003/REF (appeal) APP/L2440/W/16/3146861	Refusal 26 February 2016 Delegated Written Reps	Dismissed 11 August 2016
17 Fludes Court, Oadby, Leicester, LE2 4QQ	Use of an annex building as an independent dwelling.	16/00186/FUL (application) - APP/L2440/W/16/3154696	Refusal 22 June 2016 Delegated Written Reps	Allowed 12 December 2016
Garages, New Street, Oadby Leicester, LE2 5EB	Erection of two storey house over existing garage with bay window to front.	16/00224/FUL (application) 16/00005/HAS (appeal) APP/L2440/W/16/3158662	Refusal 28 June 2016 Delegated Written Reps	Dismissed 19 January 2017
199 Glen Road, Oadby, Leicester, LE2 4RJ	Erection of an annexe to the rear of 199 Glen Road.	16/00412/FUL (application) 16/00008/REF (appeal) APP/L2440/D/16/3163190	Refusal 8 November 2016 Delegated HAS Written Reps	Allowed 9 January 2017
10 The Broadway, Oadby, Leicester,	Erection of single 4 bed detached dwelling.	16/00248/FUL (application) 16/00010/REF (appeal) APP/L2440/W/16/3157881	Refusal 4 August 2016 Delegated	Allowed 18 January 2017

LE2 2HD			Written Reps	
6 Davenport Road, Wigston, LE18 2HF	Erection of a double storey and single storey rear extension, and alterations - Resubmission of planning application 16/00252/FUL	16/00358/FUL (application) 16/00006/HAS (appeal) APP/L2440/D/16/3164066	Refusal 13 October 2016 Delegated HAS Written Reps	Dismissed 6 February 2017
24 Knighton Grange Road, Oadby, Leicester, LE2 2LE	Erection of 2.2m high fence across front boundary.	16/00279/FUL (application) 16/00007/HAS (appeal) APP/L2440/D/16/3167419	Refusal 2 August 2016 Delegated Written Reps	Dismissed 22 February 2017

Summary: 13 decisions - 3 allowed  
- 10 dismissed  
All against delegated decisions  
No costs applications

**APPENDIX C - 2017 APPEALS**

<b>Appeal Site Location</b>	<b>Description of Development</b>	<b>Planning Ref Numbers (application / enforcement and appeal) PINs Reference Number</b>	<b>LPA Decision Date of LPA Decision Del / Com Type of Appeal</b>	<b>Appeal Outcome &amp; Date</b>
23 Falmouth Drive, Wigston, Leicester, LE18 2HH	Erection of a two storey rear extension and front porch with a lean to roof [Revised plans dated: 27/11/16].	16/00420/FUL (application) 17/00001/HAS (appeal) APP/L2440/D/17/3173708	Refused 19 January 2017 Delegated Written Reps	Allowed 1 June 2017
8 Frensham Close, Oadby, Leicester, LE2 5WF	Within 4 years and without written approval, the construction of a single storey rear extension not in accordance with planning approval granted under 16/00305/FUL	16/00057/UNAWKS  APP/L2440/C/17/3175917	Enforcement Notice 26 April 2017  Written Reps	Dismissed – appeal upheld 5 December 2017 Costs application by LPA refused
26 Vandyke Road, Oadby, Leicester, LE2 5UB	Erection of a dwelling and garage on land currently used as part of the garden of No.26 Vandyke Road, Oadby.	17/00024/FUL (application) 17/00003/REF (appeal) APP/L2440/W/17/3179598	Refusal 7 April 2017 Delegated Written Reps	Dismissed 8 January 2018
26 Vandyke Road, Oadby, Leicester, LE2 5UB	Erection of a dwelling and garage on land currently used as part of the garden of No.26 Vandyke Road, Oadby [Resubmission of 17/00024/FUL].	17/00260/FUL (application) 17/00006/REF (appeal) APP/L2440/W/17/3184441	Refusal 12 July 2017 Delegated Written Reps	Dismissed 8 January 2018
1 Ladysmith Road, Wigston, Leicester, LE18 4UZ	Proposed change of use from existing offices to nursery that will accommodate up to 26 children.	16/00377/COU (application) 17/00002/REF (appeal) APP/L2440/C/17/3175917	Refusal 19 March 2017 Committee (overturn) Written Reps	Dismissed 16 November 2017

253 Aylestone Lane, Wigston, Leicester, LE18 1BE	Erection of a double storey side extension, a single storey rear extension, and the change of use from a dwelling to 3No. flats.	17/00151/FUL(application) 17/00004/REF (appeal) APP/L2440/W/17/3181417	Refusal 21 July 2017 Committee (overturn) Written Reps	Allowed 24 November 2017 Costs awarded against LPA
16 Wellhouse Close, Wigston, Leicester, LE18 2RQ	Retrospective permission to demolish the existing conservatory and erect new single storey rear extension	17/00285/FUL (application) 17/00005/HAS (appeal) APP/L2440/D/17/3186083	Refusal 25 August 2017 Committee (overturn) Written Reps	Allowed 29 November 2017 Costs awarded against LPA
121A & 123 Stoughton Road, Oadby, Leicester, LE2 4FS	Proposed demolition of 2no. bungalows with the erection of 4no. two storey dwellings.	17/00302/FUL (application) 17/00007/REF (appeal) APP/L2440/W/17/3185255	Refusal 8 August 2017 Delegated Written Reps	Dismissed 9 February 2018
Nautical William, Aylestone Lane, Wigston, Leicester, LE18 1BA	Change of use from A4 to C3. Re-development of Public House and proposed 29No. flats with car parking.	17/00084/FUL (application) 17/00008/REF (appeal) APP/L2440/W/17/3190082	Refusal 14 July 2017 Committee (overturn) Written Reps	Dismissed 6 <sup>th</sup> March 2018
35 London Road, Oadby, Leicester, LE2 5DL	Change of use of premises from Gymnasium (D2) and taxi hire office (Sui Generis) to residential flats (C3).	17/00050/COU (application) 17/00009/REF (appeal) APP/L2440/W/17/3186512	Refusal 18 May 2017 Delegated Written Reps	Allowed 20 <sup>th</sup> March 2018 Costs application refused

11.01.2018

Summary: 10 appeals - 6 dismissed  
- 4 allowed : 2 delegated refusals and 2 Committee refusals against Officer recommendations  
4 costs applications - 1 by the LPA dismissed, 2 against the LPA approved allowed, 1 against the LPA dismissed





<b>Development Control Committee</b>	<b>Thursday, 24 May 2018</b>	<b>Matter for Information</b>
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**Report Title:** **Planning Enforcement Activity Report (2017/18)**

**Report Author(s):** **William Holloway (Planning Enforcement Officer)**

<b>Purpose of Report:</b>	To provide a yearly summary of the Council’s planning enforcement activity as the Local Planning Authority (LPA) for 2017-2018.								
<b>Report Summary:</b>	<p>During the period 22 March 2017 until 9 April 2018, the enforcement activity that has taken place is as follows:</p> <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 20px;">Number of cases on hand at the start of the period</td> <td style="text-align: right;">108</td> </tr> <tr> <td style="padding-left: 20px;">Number of new cases registered in the period</td> <td style="text-align: right;">97</td> </tr> <tr> <td style="padding-left: 20px;">Number of cases closed in the period</td> <td style="text-align: right;">106</td> </tr> <tr> <td style="padding-left: 20px;">Number of live cases currently on-hand</td> <td style="text-align: right;">42</td> </tr> </table>	Number of cases on hand at the start of the period	108	Number of new cases registered in the period	97	Number of cases closed in the period	106	Number of live cases currently on-hand	42
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Number of cases closed in the period	106								
Number of live cases currently on-hand	42								
<b>Recommendation(s):</b>	<ol style="list-style-type: none"> <li><b>1. The contents of the report be noted;</b></li> <li><b>2. The meetings of the Development Control (Enforcement) Sub-Committee be herewith suspended for a further period of one-year (i.e. 12 months); and</b></li> <li><b>3. The proposal for the next Planning Enforcement Activity Report to be written up to cover the period up to 31 March 2019, to be approximately in line with the end of the municipal year, and repeated annually thereafter, be approved.</b></li> </ol>								
<b>Responsible Strategic Director, Head of Service and Officer Contact(s):</b>	<p>Stephen Hinds (Director of Finance &amp; Transformation)                      (0116) 257 2681  <a href="mailto:stephen.hinds@oadby-wigston.gov.uk">stephen.hinds@oadby-wigston.gov.uk</a></p> <p>Adrian Thorpe (Head of Planning, Development and Regeneration)                      (0116) 257 2645  <a href="mailto:adrian.thrope@oadby-wigston.gov.uk">adrian.thrope@oadby-wigston.gov.uk</a></p> <p>Richard Redford (Planning Control Team Leader)                      (0116) 257 2654  <a href="mailto:richard.redford@oadby-wigston.gov.uk">richard.redford@oadby-wigston.gov.uk</a></p> <p>William Holloway (Planning Enforcement Officer)                      (0116) 257 2733  <a href="mailto:william.holloway@oadby-wigston.gov.uk">william.holloway@oadby-wigston.gov.uk</a></p>								
<b>Corporate Priorities:</b>	Effective Service Provision (CP2)								
<b>Vision and Values:</b>	Accountability (V1)								
<b>Report Implications:-</b>									
<b>Legal:</b>	There may be implications should formal enforcement action be taken over any current investigation including preparation of the formal notices and prosecutions.								

Financial:	There may be implications should any current enforcement investigation result in formal notices being served leading to direct action, prosecution and, or, appeals with cost applications.
Corporate Risk Management:	Decreasing Financial Resources (CR1) Reputation Damage (CR4) Regulatory Governance (CR6)
Equalities Assessment (EA):	Not applicable.
Human Rights:	There are no implications directly arising from this report.
<b>Statutory Officers' Comments:-</b>	
Head of Paid Service:	The report is satisfactory.
Chief Finance Officer:	The report is satisfactory.
Monitoring Officer:	The report is satisfactory.
<b>Consultees:</b>	Not applicable.
<b>Background Papers:</b>	<a href="#">Report to Development Control Committee on 17 February 2016</a>
<b>Appendices:</b>	None.

## 1. Introduction

- 1.1 At the meeting of the Development Control Committee on 17 February 2016, Members resolved that for a period of one-year (i.e. 12 months) that the Development Control (Enforcement) Sub-Committee would be suspended given the levels of input now required following appointment of a permanent Planning Enforcement Officer in February 2015, a noticeable decrease in the level of cases on-hand and the time some cases had been on-hand before being dealt with expeditiously.
- 1.2 As Members are aware, the Council as Local Planning Authority (LPA) is monitored on its performance in the determination of planning submissions on a quarterly-basis with the expectation that the Council exceeds targets set by Central Government.

## 2. Information

- 2.1 During the period 22 March 2017 until 9 April 2018, the enforcement activity that has taken place is as follows:

Number of cases on hand at the start of the period	108
Number of new cases registered in the period	97
Number of cases closed in the period	106
Number of live cases currently on-hand	42

- 2.2 During the period 22 March 2017 until 9 April 2018, a total of 3 formal Enforcement Notices (EN) were served and, of those: 1 is currently under appeal; 1 is awaiting for works to be completed by the compliance date; and the other being considered for a prosecution proceedings and, or, consideration of direct action being taken by the Council in default.

- 2.3 During the period 22 March 2017 until 9 April 2018, there were two appeals against the service of Enforcement Notices: one of which was won by the Council and the other is currently still going through the appeal process.
- 2.4 Currently, the oldest case on-hand is 5 years old and the property in question is on its way to being refurbished and bought back into use. Planning Enforcement continually monitors the site to ensure that this occurs in a timely manner following years of negotiations.
- 2.5 As Members will be able to glean from the above, enforcement cases continue to decrease in both number and the Planning Enforcement Officer can see no reason to suppose that this will not continue to be the case for the foreseeable future.
- 2.6 Action taken by the Planning Enforcement Officers during this time period has also led to a substantial number of retrospective planning applications being received to regularise breaches of control.

# Agenda Item 7



<b>Development Control Committee</b>	<b>Thursday, 24 May 2018</b>	<b>Matter for Information</b>
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**Report Title:** **Felling Licences and Protected Trees**

**Report Author(s):** **Michael Bennetto (Arboricultural Officer)**

<b>Purpose of Report:</b>	To provide clarification to Members on the need for felling licences and their interaction with protected trees.
<b>Report Summary:</b>	When an application for or involving tree work is made, the points below are considered and, where appropriate, are checked with the Forestry Commission (FC) as to whether they consider a licence necessary. If so, the application would be returned to the applicant as invalid and notified of the requirement for a licence. At this point the applicant can either amend their application to be exempt from a licence and resubmit, or submit a licence application to the FC. At the point of applying for a licence, the FC will consult with the Authority whose Tree Preservation Order (TPO) is affected. At this point, Members will be notified. If TPO or Conservation Area status is omitted from the licence application, the owner and operator can be held liable under the Town and County Planning Act 1990.
<b>Recommendation(s):</b>	<b>1. The contents of the report be noted.</b>
<b>Responsible Strategic Director, Head of Service and Officer Contact(s):</b>	<p>Stephen Hinds (Director of Finance &amp; Transformation) (0116) 257 2681 <a href="mailto:stephen.hinds@oadby-wigston.gov.uk">stephen.hinds@oadby-wigston.gov.uk</a></p> <p>Adrian Thorpe (Head of Planning, Development and Regeneration) (0116) 257 2645 <a href="mailto:adrian.thrope@oadby-wigston.gov.uk">adrian.thrope@oadby-wigston.gov.uk</a></p> <p>Richard Redford (Planning Control Team Leader) (0116) 257 2654 <a href="mailto:richard.redford@oadby-wigston.gov.uk">richard.redford@oadby-wigston.gov.uk</a></p> <p>Michael Bennetto (Arboricultural Officer) (0116) 257 2697 <a href="mailto:michael.bennetto@oadby-wigston.gov.uk">michael.bennetto@oadby-wigston.gov.uk</a></p>
<b>Corporate Priorities:</b>	Not applicable.
<b>Vision and Values:</b>	Not applicable.
<b>Report Implications:-</b>	
Legal:	There are no implications directly arising from this report.
Financial:	There are no implications directly arising from this report.
Corporate Risk Management:	No Corporate Risk(s) Identified

Equalities Assessment (EA):	Not applicable.
Human Rights:	There are no implications directly arising from this report.
<b>Statutory Officers' Comments:-</b>	
Head of Paid Service:	The report is satisfactory.
Chief Finance Officer:	The report is satisfactory.
Monitoring Officer:	The report is satisfactory.
<b>Consultees:</b>	Not applicable.
<b>Background Papers:</b>	<a href="#">Forestry Act 1967</a> <a href="#">The Town and Country Planning Act 1990</a> <a href="#">The Town and Country Planning (Tree Preservation)(England) Regulations 2012</a> <a href="#">Guidance on Guidance Tree Preservation Orders and Trees in Conservation Areas (March 2016, Ministry of Housing, Communities &amp; Local Government)</a> <a href="#">Guidance Note on Tree Felling – Getting Permission (2007, Forestry Commission)</a> <a href="#">How We Consult About Woodland Planting and Tree Felling (2002, Forestry Commission)</a>
<b>Appendices:</b>	None.

## 1. Information

- 1.1 The interplay between Tree Preservation Orders (TPO) and Felling Licences (FL) are complex and numerous, and the information and process outlined below is a generic approach that should be followed for all applications.
- 1.2 The Forestry Commission (FC) has a statutory duty to protect and expand Britain's forests and woodlands and to increase their value to society and the environment. They are the responsible authority for implementing the Government's forestry policies.
- 1.3 Any Local Authority, when dealing with an application relating to a woodland subject to a TPO must grant consent so far as accords with good forestry practice unless it is satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area. The UK Forestry Standard and its supporting guidelines define the government's standards and requirements.
- 1.4 Where an Authority grants consent for work in woodland that does not require a felling licence it may impose a condition to replant the land. The authority may wish to consult the Forestry Commission on the details of such a condition.
- 1.5 In the simplest terms, the process is as follows:
  - a. If TPO exemptions apply, works can be carried out or, in certain circumstances, 5 working days' notice of the proposed works provided;
  - b. If felling licence exemption(s) apply, an application to the authority under TPO regulations is required;
  - c. If no exemptions apply, the proper route to apply to fell the trees is therefore through a felling licence application, regardless of whether there is a TPO on the land;

- d.** The presence of a TPO requires the FC to consult with the authority, and gives the authority a veto on issuing the Licence, this is afforded to the authority through the Forestry Act 1967;
- e.** The statutory consultation period is 4 weeks within which any objections are discussed with all parties involved to see if an agreement can be made about how the proposals might proceed; and
- f.** If issues still remain, the application is then passed onto either the authority or escalated to the Secretary of State for the Environment Transport and the Regions.

1.6 Applications for works within a Conservation Area would be similar.

1.7 Due to the broad range of possible exemptions, there is only a very narrow range of situations where there is scope for matters of this type arising in this Borough.

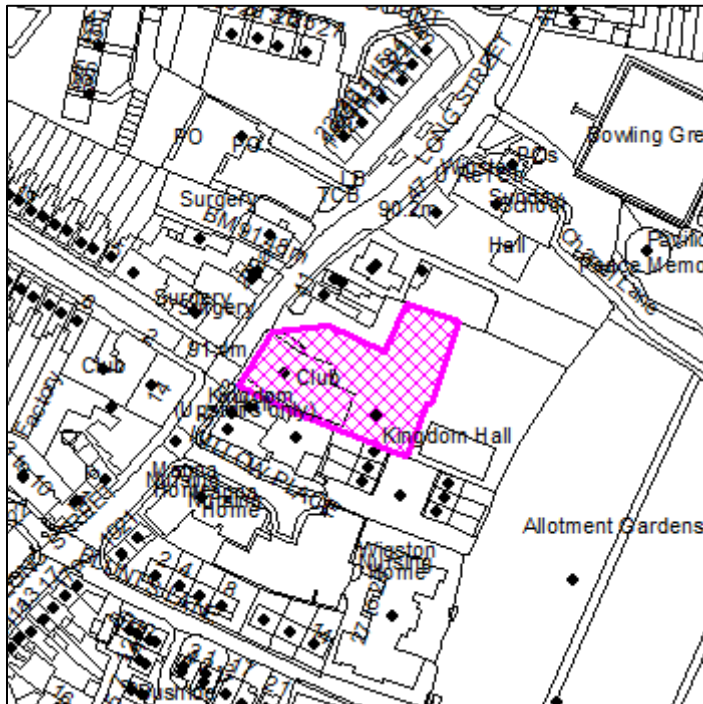
1.8 If Members wish to know more, the background documents listed above provide further information on exemptions, procedure, legislation, regulation and best practise.

1.9 The Arboricultural Officer is of the opinion that it would be of great benefit for both Members and Officers to engage at the earliest opportunity with matters of this type.

**Application Number****Address****Report Items**

- a. 17/00495/FUL** 39 Long Street  
Wigston  
Leicestershire  
LE18 2AJ
- b. 18/00045/FUL** 28 Davenport Avenue  
Oadby  
Leicestershire  
LE2 5HP
- c. 18/00047/FUL** 19 Welford Road  
Wigston  
Leicestershire  
LE18 3SP
- d. 18/00098/FUL** Land to the Rear of 125 Stoughton Road  
Oadby  
Leicestershire  
LE2 4FS

a.	<b>17/00495/FUL</b>	39 Long Street Wigston Leicestershire LE18 2AJ
	14 November 2017	Demolition of existing building. Proposed new residential development comprising 1 block of 12 flats and 7 town houses (1 terrace of 5 and 1 semi-detached pair), including revised access layout to site, refuse store and bicycle storage. (Use Class C3) (Rev A)
	CASE OFFICER	Tony Boswell



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## Site and Location

The application site consists of a vacant Working Men's Club and an associated car park at 37-39 Long Street, Wigston. The site lies approximately 200 metres south-west of Wigston town centre. The Working Men's Club on the site dates from the mid to late 19<sup>th</sup> Century. It is a predominantly red brick structure with a slate roof, although its front elevation has been somewhat unsympathetically finished in an off-white render. Its interior is also in a severely dilapidated state.

Surrounding land uses include a hairdressing salon and a dwelling to the north-west, a dental practice and associated car park to the north, commercial units and residential properties to the south and a place of worship, "Kingdom Hall" and its car park to the east.

The site is enclosed by a variety of boundary treatments including a brick wall of approximately 2 metres in height to the north-west, metal railings approximately one metre in height to the north, palisade fencing and a 1.5 metre high brick wall to the east and a wall approximately 2 metres in height to the boundary with the dwellings to the south. The remainder of the southern boundary is demarcated by the existing building on the site. There is no formal boundary treatment across the Long Street frontage. The site is relatively flat. It sits approximately one metre above the level of the dental surgery car park to the north.

The site is accessed off Long Street. The access is shared with Kingdom Hall to the east.

The site lies within The Lanes Conservation Area. The nearest listed buildings are the Grade I listed All Saints Church approximately 170 metres to the south-west, the Grade II listed Wigston Reform Church approximately 75 metres to the north-east and the Grade II listed Avenue House 20 metres to the west. There are no specific designations affecting the property identified within either the Saved Local Plan or the Core Strategy.

## Description of proposal

In very broad terms the current proposal is comparable to that refused planning permission under 16/00024/FUL last year, but of a smaller scale and lower overall density.

The Long Street frontage would be occupied by a three storey building (with a top floor within the roof) containing 12 flats, of which seven would have two bedrooms and five single bedroomed. That building would also contain an internal secure cycle store and communal bin store accessible from the new internal road at its northern end. This new building would replace the existing Working Men's Club building on the frontage and in demolishing that building the potentially very unattractive northern end of the adjacent two storey building which abuts the Club would be exposed. Alongside the new flatted building it is, therefore, proposed to erect a new free standing screen wall which will effectively screen the front part of that newly exposed flank wall to its full height. The new building as a whole would be set back on the frontage, behind a widened footway and new frontage boundary treatment consisting of a dwarf wall topped by railings. It would generally be in brickwork, with two front facing gable features and cladding between those two features. Although many of the buildings in proximity and so within the Conservation Area are overwhelmingly "modern" in character, those immediately to the north of the site and opposite are very ornate heritage assets. The proposed building does not attempt any analogy of those historic buildings, although its fundamentally brick form and gabled roof respect some of those forms.

At the northern end of that flatted building a newly constructed roadway would connect Long Street with the retained "Kingdom Hall" to the rear of the application site. Although, in much the same location as the existing entrance, that would be altogether re-configured with a more

straightforward alignment. As realigned that would provide access to a total of 16 car spaces within a surfaced and landscaped car park to the rear of the flatted building described earlier.

To either side of the new roadway approaching Kingdom Hall there would be a total of 7 x three bedroomed 2 and a half storey homes and gardens – one terrace of five to the rear of the flatted building and a further pair of two more to the north of that entrance road. These would be constructed in materials and detailing similar to the flatted building as described earlier. Three of those homes would not have rear access to their rear garden for the removal of refuse and recycling bins. Brick built “bin stores” would, therefore, be included to their frontage between the intervening car spaces.

The statutory determination period for this application expired on the 13 February 2018, and it is intended to issue a conditional planning permission as soon as practicably possible after completion of the recommended Section 106 obligation.

### **Relevant Planning History**

09/00196/CON: Conservation Area Consent for demolition of part of single storey rear projection – Approved 18 August 2009

09/00197/FUL: Change of Use from Working Men’s Club (Use Class D2) to Public House and Restaurant (Use Classes A3 and A4) plus first floor rear extension, new canopy to side and alterations to external elevations – Approved 18 August 2009

16/00024/FUL: Redevelopment to provide a block of 12 flats (two bedroom) and 8 terraced houses (three bedroom), refuse and bike storage on site with 18 parking bays. – Refused 29 December 2016 for the following reason:

*“Notwithstanding the priority which should properly be given to new housing, the applicants have failed to make a compelling and persuasive case for the redevelopment of the former Working Mens’ Club premises which form a historically important non-designated heritage asset within The Lanes Conservation area. In particular but not exclusively the scale, character and detailed design of the proposed flatted building to the Long Street frontage would unacceptably and adversely harm the character and appearance of this part of the Conservation Area. The proposal as a whole would therefore be contrary to National Planning Policy in paragraph 132 of the National Planning Policy Framework and relevant sections of policies 14 and 15 of the Oadby and Wigston Core Strategy”.*

### **Consultations**

#### Leicester County Council – (Historic Buildings Officer)

Regret the loss of the Working Men’s Club. Made a number of adverse comments about early iterations of the proposed design which have guided officers in seeking changes now incorporated. Remaining points are concerned with “modern” rather than “traditional” aspects of the proposed design.

#### Leicestershire County Council (Highways)

Have been consulted and then re-consulted on a number of occasions as various amendments to the proposed scheme have progressed. Most recently this has been to minor amendments to the highway layout at the behest of the Trustees of Kingdom Hall who would retain their route through the proposed redevelopment to and from Long Street. LCC’s most recent views are:

**Development Control Committee Meeting  
24 May 2018**

### **Background**

*The Local Highway Authority [LHA] has twice made previous comments on this application in January 2018. Since this time the LHA has been working with the LPA and the Applicant in order to resolve various issues concerning the access, layout and off-site improvements.*

*The applicant has now submitted revised drawings numbered PL-SP-004 rev C, and PL-SP-006 rev xx, and these are acceptable to the LHA. Therefore the LHA advice is that, in its view, the residual cumulative impacts of development are not considered severe in accordance with Paragraph 32 of the NPPF.*

### **Site Access**

*The present access is at a very acute angle to Long Street leading to poor visibility to the northeast. The proposals have now been revised and this is much improved.*

### **Trip Generation**

*The LHA is satisfied that the traffic from the proposed dwellings can be accommodated on the local highway network and will not lead to any more issues than the existing permitted / previous use of the site as a Working Mens Club.*

### **Off-Site Implications**

*The LHA has requested that the footpath at the frontage of the site be widened and the current access to the western corner of the site be re-instated to full kerb height. Both of these off-site improvements should improve the pedestrian facilities in the area.*

### **Internal Layout and Transport Sustainability**

*There are insufficient car parking spaces so that each dwelling / flat has its own space; however, due to the location and other modes of travel available in the immediate area the LHA is prepared, on this site specific case to relax the guidelines slightly. Cycle parking is also to be provided.*

The Highway Authority go on to recommend a number of planning conditions and informatives which have been incorporated.

### Leicestershire County Council (Contributions Team)

Review the need for Section 106 (S106) funding of various LCC services applicable to the scale and location of the proposed development. Request a S106 contribution of **£24,311.59** to assist in funding Secondary School provision.

### Wigston Civic Society

*I refer to the above application, which we note is a revised application following refusal of application number 16/00024FUL on which we commented to the effect that the front elevation (onto Long Street) of the flats was too tall and overbearing even with three storeys and a flat roof as appeared in the revised application at that time.*

*The Society is of the opinion that the current application overcomes the objections to the front elevation with the roof line being far less intrusive.*

*We commented previously that we would wish to see the gable and arch of the existing building incorporated in to the frontage, we note that this amended application does incorporate the gable but not the arch. However we feel that other benefits of the new application over ride this need.*

**Development Control Committee Meeting  
24 May 2018**

*In addition it is noted that the terrace at the rear has been broken into a pair of semis and a terrace of 5 units which again is far easier on the eye and enables an improved access to the occupiers at the rear of the site.*

*We would support this application which will enhance the street scene in Long Street.*

### OWBC Forward Plans

Review the relevant National and Local Plan issues, including Core Strategy Policy 11 (affordable housing) and this Council's Developer Contributions Supplementary Planning Document. In that light request that **20% of the proposed homes be in the form of affordable housing and a contribution of £34,133.78 towards off-site provision of Open Space, Sport and Recreation**. Other matters are referred to elsewhere in this report.

### **Representations**

18 near neighbours notified by direct mail and a site notice posted on the 14 November 2017 giving publicity to the proposed demolition within the Conservation Area. A press notice published in the Oadby and Wigston Mail to the same effect on the 23 November 2017.

No replies received at the time of drafting this report.

### **Relevant Planning Policies**

#### National Planning Policy Framework (NPPF)

In particular Sections 6, 7 and 12

#### Oadby & Wigston Core Strategy

Core Strategy Policy 1: Spatial Strategy for development in the Borough of Oadby & Wigston

Core Strategy Policy 4: Sustainable Transport & Accessibility

Core Strategy Policy 10: Community Infrastructure

Core Strategy Policy 11: Affordable Housing

Core Strategy Policy 14: Design and Sustainable 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

Conservation Areas Supplementary Planning Document

Residential Development Supplementary Planning Document

Developer Contributions Supplementary Planning Document.

### **Planning Considerations**

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

- \* The Commercial viability of the proposed development.
- \* The principle of residential development in this location
- \* The impact of the proposal upon the character and appearance of The Lanes Conservation Area and the setting of nearby listed buildings
- \* The impact of the proposal on neighbouring residential properties.

**Development Control Committee Meeting  
24 May 2018**

\* The impact of the proposal upon the safe and efficient use of the highway

### The Commercial viability of the Proposed Development

At an early point in discussions about policy compliant Section 106 obligations the applicant submitted an independently prepared "Viability Assessment" of the proposals. Ordinarily such assessments are regarded as commercially confidential and, although the applicants have not asked that the details of that assessment should be treated as confidential, officers suggest that much of its contents should be treated as such.

As since audited by the Council's own consultant valuation specialists in a 29 page Viability Report for the Council, the applicants documents assert that the development proposed would not be commercially viable if the policy requirement that 20% of the development should be in the form of affordable housing and that financial contributions of £24,311.59 towards local Secondary School provision and £34,133.78 towards off-site provision of Open Space, Sport and Recreation are to be included in the recommended S106 obligation. Instead the projected development could only take place at a substantial commercial loss and so, in practice, would not take place at all. This would leave any future developer or purchaser of the premises to contemplate an altogether different or more intensive and hence more valuable form of redevelopment. Note that no similar statement about viability was made at the time of the previous planning application 16/00024/FUL as refused – see above. Unlike the present less intensive proposal, that application was for a total of 12 flats and 8 x three bedroomed houses with gardens.

The following Planning Policy Guidance is provided by DCLG to assist in cases such as this:

*"Decision-taking on individual applications does not normally require consideration of viability. However, where the deliverability of the development may be compromised by the scale of planning obligations and other costs, a viability assessment may be necessary. **This should be informed by the particular circumstances of the site and proposed development in question.** Assessing the viability of a particular site requires more detailed analysis than at plan level. **A site is viable if the value generated by its development exceeds the costs of developing it and also provides sufficient incentive for the land to come forward and the development to be undertaken**".*

The financially critical issue in this case is in the loss of development value that would arise from the discounted sale of 20% of the development (flats or houses) to a Registered Social Landlord (RSL) or similar housing provider in order to serve as affordable homes. Also significant is the relatively low market value of flats offered for sale in and around Wigston and the relatively high cost of building in the local area. Those local build costs are known to be marginally above the nationwide build cost figures projected by the BCIS (Building Cost Information Service) managed by the RICS for the purpose of calculating current and future building costs.

The policy requirement in Core Strategy Policy 11 is that 20% of new developments above 10 new dwellings in Wigston should be in the form of affordable homes (i.e. 5 affordable homes out of the 23 proposed). In light of the specific circumstances of this case, and so without any wider implications, the recommendation to grant conditional planning permission is on the basis of a S106 Obligation which should include payments of £24,311.59 towards local Secondary School provision; £34,133.78 towards off-site provision of Open Space, Sport and Recreation, indemnifying the Council's refuse collection vehicles from entering the proposed private road, and without any obligation regarding the provision of affordable homes.

### The principle of residential development in this location

A core principle 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 distance of a range of services and facilities in the town centre. 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 Lanes Conservation Area and the setting of nearby listed buildings

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.*"

Paragraph 134 "*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.*"

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. It encourages the preservation and enhancement of the character and appearance of the Borough's Conservation Areas and listed buildings.

The proposals involve the demolition of a substantial and historic building within The Lanes Conservation area, which is a designated heritage asset. Paragraph 138 of the NPPF acknowledges that not all aspects of a conservation area will necessarily contribute to its significance. The building is specifically mentioned within the Conservation Area appraisal as being one of the oldest working men's clubs in the United Kingdom, which suggests significance to the social and historic development of Wigston. Whilst it is noted that it is of historic significance, the frontage of the building and much of its interior has been unsympathetically altered, which has eroded much of its

traditional character. In the Author's opinion the building does not therefore currently contribute positively towards the character or appearance of the Conservation Area.

The building has been empty for some time, principally because the applicant has not been able to find a viable use for it. Whilst no evidence of marketing has been submitted alongside this application, the planning history of the building demonstrates that alternative uses have been actively pursued, but unfortunately without interest from the market. If the building remains empty, it is highly likely that its condition will further deteriorate resulting in further harm to the character and appearance of the Conservation Area. The building has become a target for vandals and the applicant is increasingly concerned regarding its security, particularly given the recent fire on the opposite side of the road (at Number 10 Long Street). Retaining the structure without an active or commercially viable use is not therefore desirable.

The building was designed very much with its specific function in mind and does not lend itself particularly well to alternative uses. Retention and re-use of the building is not therefore a viable option in this instance. The building lacks window and door openings and conversion to residential use would involve significant disruption to the traditional fabric of the building such that its character would be further eroded. In this instance it is considered that demolition and replacement of the building, whilst regrettable, is the only viable option.

The demolition of the former working men's club would expose part of the north elevation of the adjoining commercial building. The finish of the north elevation of the commercial building is an unknown quantity but it is possible that it is not finished in facing brickwork given that it was never intended to be visible. This wall lies outside of the applicants control and as such opportunities for remediation are limited. The proposals have therefore been designed to screen the end elevation of the neighbouring building.

Paragraph 16.15 of the OWBC Conservation Areas SPD states that in order to be acceptable, the design of any new building in The Lanes Conservation Area will need to respect its character by being of an appropriate mass and scale to avoid dominating the existing mainly two storey properties and/or to maintain an appropriate juxtaposition of scales, and respect prevalent architectural detailing. It was concern over the fundamentally three storey nature of the former proposal which led to refusal of 16/00024/FUL during last year.

Surrounding buildings are predominantly two or two-and-a-half storeys in height, creating a continuous and harmonious urban form. 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.

The proposed flats and dwellings have a contemporary character and appearance, which in accordance with Paragraph 60 of the NPPF is considered an acceptable design approach. The surrounding area features buildings of varied ages and architectural styles, and the proposed development will contribute positively towards that mixture.

On balance, and subject to compliance with recommended conditions it is not therefore considered that the proposals would harm the character or appearance of the conservation area or the setting of nearby heritage assets.

### 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 commercial area. However, there are neighbouring residential properties at Willow Place to the south of the site and at 43 Long Street to the north. The proposals are sufficiently distant from principal windows serving 43 Long Street to avoid resulting in unacceptable loss of daylight or privacy.

The dwelling on Willow Place immediately south of the site has a blank side elevation. There are windows on its rear elevation, and the proposed terrace encroaches into a 45 degree splay taken from the centre of those windows. However, the terrace lies to the north of Willow Place and as such the proposals will not result in an unacceptable loss of sunlight.

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

It should be noted that LCC Highways do not propose to adopt the new roadway as a public highway as it does not meet the design criteria for new roads in a number of minor respects. In consequent of that fact there will need to be provision in any S106 Obligation to indemnify the Council's refuse collection contractors for entry and exiting that roadway for collection purposes.

The proposal as a whole involves Five x single bedroom; Seven x two bedroom and Eight x three bedroom homes which would ordinarily require 28 off-street car parking spaces. In fact a total of 16 spaces are proposed for the total of 23 homes and are located such that they might be allocated to individual dwellings. In discussion with LCC Highways at an early point, in such a relatively central location with many local services in close proximity including access to public transport, this deficiency is not considered by officers or the Highway Authority to be critical grounds for refusal of permission.

### **Conclusion**

Subject to compliance with the recommended S106 obligation and with recommended conditions below 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 existing building on the site is of some historic significance. Whilst its loss is regrettable, in this instance demolition and replacement is necessary to secure a viable use for the site. The existing building has been unsympathetically altered and in visual terms its replacement would not harm the character of the conservation area or the setting of nearby listed buildings.

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.



## 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 then:

- (a) Subject to the completion of an acceptable Section 106 obligation by the 29 June 2018 and for the reasons set out in the above report, **Permit** subject to the following conditions:
- (b) If the anticipated Section 106 obligation is not completed by 29 June 2018 then the application be **Refused** due to non-compliance with Core Strategy Policies 10 and 11 of the Oadby and Wigston Core Strategy.

## 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 Prior to the commencement of development details of all materials to be used externally shall be submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out using the agreed materials.  
**Reason:** To safeguard the character and appearance of the Lanes Conservation Area and the building in general and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policies 14 and 15, Landscape Proposal 1 of the Oadby and Wigston Local Plan and the Conservation Areas Supplementary Planning Document.
- 3 Notwithstanding the submitted details, no development shall take place until a site plan at a minimum scale of 1:200 showing a revised car parking/turning layout and including a detailed scheme of landscaping, fencing (including railings) and walling has been submitted to and approved in writing by the Local Planning Authority. The car parking /turning area shall be formed in accordance with the approved layout prior to the first occupation of any of the dwellings and thereafter shall be retained for the life of the development.

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**Reason:** To safeguard the character and appearance of The Lanes Conservation Area and the setting of nearby listed buildings; to safeguard the safe and efficient use of the highway network and in accordance with the aims and objectives of the National Planning Policy Framework, Core strategy policies 4, 14 and 15, Landscape Proposal 1 of the Oadby and Wigston Local Plan and the Oadby and Wigston Conservation Areas SPD.

- 4 All planting, seeding or turfing comprised in the details of landscaping approved under Condition 3 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.
- 5 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.
- 6 Notwithstanding the details shown on submitted drawings and prior to the commencement of any development annotated and detailed plans to a scale of not less than 1:50 shall be submitted to and approved in writing by the Local Planning Authority of the proposed "end stop" screen wall adjacent to the new building to screen the exposed flank wall of the adjacent number 35 Long Street. None of the dwellings hereby permitted shall be occupied until the approved details of that screen wall have been implemented.
- Reason:** To safeguard the character and appearance of The Lanes Conservation Area and the setting of nearby listed buildings and in accordance with the aims and objectives of the National Planning Policy Framework, Core strategy policies 14 and 15, Landscape Proposal 1 of the Oadby and Wigston Local Plan and the Oadby and Wigston Conservation Areas Supplementary Planning Document.
- 7 The cycle storage facilities shown on the approved plans shall be equipped and 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.
- 8 No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on SKM Design drg no PL-SP-006 Rev (to be finalised) have been implemented in full.
- Reason:** To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with Paragraph 32 of the National Planning Policy Framework 2012.

- 9 The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with SKM Design drg no PL-SP-006 Rev (to be finalised) . Thereafter, the onsite parking provision shall be so maintained in perpetuity.  
**Reason:** To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with Paragraphs 32 and 35 of the National Planning Policy Framework 2012.
- 10 The development hereby permitted shall not be occupied until such time as the access drive and turning spaces have been surfaced with tarmacadam, or similar hard bound material not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.  
**Reason:** To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with Paragraph 32 of the National Planning Policy Framework 2012.
- 11 The new vehicular access hereby permitted shall not be used for a period of more than one month from being first brought into use unless any existing vehicular accesses on Long Street that become redundant as a result of this proposal have been closed permanently and reinstated in accordance with details first submitted to and agreed in writing by the Local Planning Authority.  
**Reason:** In the interests of highway and pedestrian safety in accordance with Paragraph 32 of the National Planning Policy Framework 2012.
- 12 No development shall commence on the site until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.  
**Reason:** To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not use unsatisfactory roads and lead to on-street parking problems in the area.
- 13 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.  
 (To be finalised)  
**Reason:** For the avoidance of doubt as to what is permitted by this permission and in the interests of proper planning.

Note(s) to Applicant :

- 1 This decision is also conditional upon the terms of the planning agreement which has been entered into by the developer and the Council under Section 106 of the Town and Country Planning Act 1990 (as amended). The Agreement runs with the land and not to any particular person having an interest therein

- 2 You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section.
- 3 If the proposal involves the carrying out of building work along or close to the boundary, you are advised that under the Party Wall Etc. Act 1996 you have a duty to give notice to the adjoining owner of your intentions before commencing this work.
- 4 For the avoidance of doubt this permission does not authorise any development outside the application site including any foundation, footings, fascias, eaves, soffits, verges or guttering.
- 5 The applicant is advised that no demolition works or associated works or operations should take place on the site except between the hours of 8.00am and 6.00pm Monday to Friday, 9.00am to 2.00pm on Saturday and at no time on Sundays or Bank Holidays.
- 6 Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the 6Cs Design Guide which is available at <https://www.leicestershire.gov.uk/environment-and-planning/planning/6cs-design-guide>
- 7 The proposed road layout does not conform to an acceptable standard for adoption and therefore it will not be considered for adoption and future maintenance by the Local Highway Authority. The Local Highway Authority will, however, serve Advance Payment Codes in respect of all plots served by (all) the private road(s) within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge must be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the Advanced Payment Code may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details please email [road.adoptions@leics.gov.uk](mailto:road.adoptions@leics.gov.uk). Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it.
- 8 To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
- 9 All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the 6Cs Design Guide which is available at <https://www.leicestershire.gov.uk/environment-and-planning/planning/6cs-design-gu>
- 10 In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application and this has

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resulted in the approval of the application. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

## 11 **Appeals to the Secretary of State**

If you are aggrieved by the decision of your local planning authority 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](http://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.

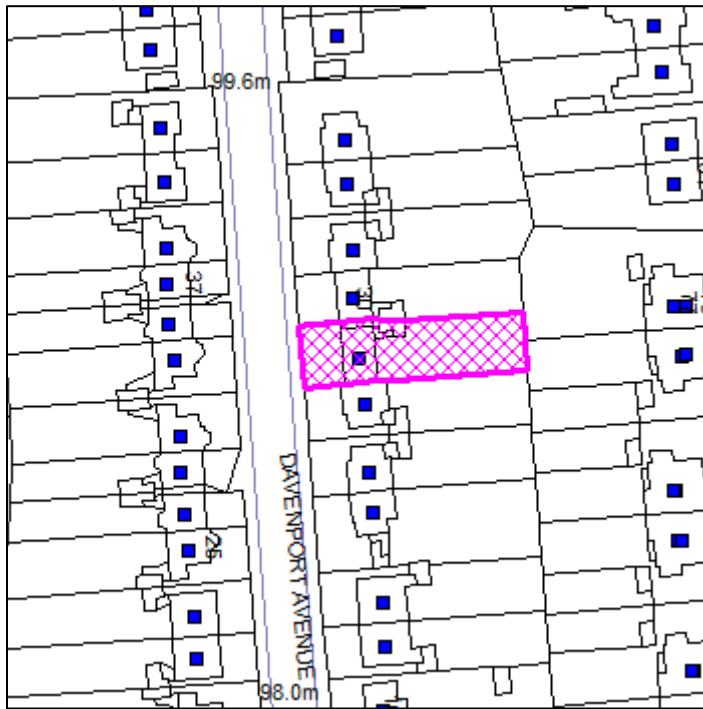
The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements,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

<b>b.</b>	<b>18/00045/FUL</b>	28 Davenport Avenue Oadby Leicestershire LE2 5HP
	3 April 2018	Erection of a scooter store to front of house.
	CASE OFFICER	Richard Redford



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## **Site and Location**

The application site is occupied by a two-storey mid-terrace residential dwelling (Use Class C3) with hard standing to the front to provide parking for 2 to 3 vehicles. Constructed of brick and roof tiles, there is a pedestrian under-croft footway between the application dwelling and one of its attached neighbours that allows both dwellings to access their private rear garden amenity space. The access is no greater than 1m in width. There is a 0.8m high close boarded fence along the boundary with one neighbour and a hedge approximately 1.5m high on the boundary with the other neighbour.

The site is located on the eastern side of Davenport Avenue, Oadby surrounded by a mixture of two-storey semi-detached and terraced residential dwellings (Use Class C3). Ground levels rise from 1 and 2 Davenport Avenue up to the site and beyond.

The application has been brought before the Committee for determination as it is a Council application.

## **Description of proposal**

Planning permission is sought for the erection of a scooter store to the front of the existing dwelling. With a footprint measuring 1.63m by 1.45m, it will be 1.2m at its highest point above ground level and be positioned 1m to the front of the existing front wall at the dwellings northern edge. Submitted details indicate it will be constructed of recycled plastics in either green or brown.

The statutory determination period for this application expires on the 29 May 2018 and it is intended to issue a decision as soon as practicably possible after the committee meeting.

## **Relevant Planning History**

The site has a relevant planning history.

## **Consultations**

Leicestershire County Council (Highways): No comments received at the time of writing this report.

## **Representations**

Neighbours have been informed and a 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 7 May 2018.

## **Relevant Planning Policies**

National Planning Policy Framework (NPPF)

Oadby & Wigston Core Strategy

Core Strategy Policy 14 : Design and Sustainable Construction

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## Oadby and Wigston Local Plan

Landscape Proposal 1 : Design of new development subject to criteria  
Housing Proposal 17 : Criteria for assessing the suitability of domestic extensions

### Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document

### Emerging Oadby & Wigston Local Plan:

Policy 1 : Presumption in favour of sustainable development  
Policy 6 : High quality design and materials  
Policy 44 : Landscape and character

## **Planning Considerations**

The main issues to consider in the determination of this application relate to and include the design and appearance of the proposal including its relationship with the streetscene; the impact of the proposal on neighbouring residential properties; and parking and highway matters.

### Design, Appearance and Streetscene:

The proposed store is a pre-fabricated panel structure over which the Local Planning Authority has very little control in respect of design and appearance. Officer discussions with the applicant have indicated that it is proposed to the front of the dwelling as a result of the scooter to be stored not being able to access the rear garden without works to a neighbouring rear boundary fence.

Stores of larger sizes are available, however, the applicant has submitted that proposed following discussions with officers in order to ensure bulk, scale, massing and visual impacts are kept to an absolute minimum in the interests of visual amenity and character.

While it has a design and appearance at odds with the streetscene due to its location forward of the application site dwelling as well as the other dwellings in the street its size, scale, bulk and massing are of a level that serves to minimise the impact such that a refusal on visual impact would be difficult to sustain. Furthermore, its position 1m to the front of the dwelling at one side serves to have it set in close proximity to the dwelling it will serve so further reducing visual impact.

Its position off the front wall of the dwelling has been done in order to allow 'all-round' access maintenance as well as to ensure ease of access to and from the covered alleyway from the front to the rear of the application site and one of the attached neighbours. It has also been positioned in the location proposed so as to not block any front windows. These provisions are such that it enables it to be read in conjunction with the dwelling while also enabling its maintenance as well as ensuring visual impacts on the area and streetscene are minimised.

### Relationship with Neighbouring Residential Properties:

The proposal is sited 1m from the front wall of the existing dwelling to the northern side of the front door and site but to the south of the covered front-to-rear alleyway that allows access to the rear gardens for both the application site and 30 Davenport Avenue.

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This position is such that it does not impede or infringe on any windows for either the application site or neighbouring dwellings. Furthermore, it will not impinge the ability of occupiers of the application site or neighbours at 30 Davenport Avenue from utilising the rear garden access alley.

Its height, scale, bulk and location are all such that they will not result in any loss of light to neighbours nor be overbearing on their amenities.

Parking and highway matters:

The site currently benefits from an area to the front of the house that is covered completely in hard standing so provides on-site parking for 2 to 3 vehicles.

Due to the location of the proposed scooter store, there will be sufficient space for 2 on-site parking spaces to be retained on-site. This provision is in accordance with current standards. Furthermore, its location and size is that it will not result in any adverse or detrimental impacts upon highway visibility.

**Conclusion**

The proposal is of a design, appearance, scale and massing such that while it will be visible in the streetscene it will not result in an adverse impact that would justify a refusal. Its location will not result in any adverse impacts upon neighbouring amenity. Further, sufficient on-site parking provision will remain while not impacting upon highway visibility and safety. Overall, therefore, the proposal complies with policy requirements.

**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 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.

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- 2 The development hereby permitted shall only be used for the storage of a mobility scooter associated with the residential occupation of the dwelling known as 28 Davenport Road, Oadby and for no other purpose. The structure shall be removed from the site once the need for the structure for the storage of a scooter has ceased.

**Reason:** To ensure it is used for the purposes for which it has been sought and for the avoidance of doubt.

- 3 The development hereby permitted shall be carried out in accordance with the following documents:

Application forms, Site Location Plan, and metroSTOR Product Overview details submitted to and received by the Local Planning Authority on 29th January 2018; and

Block plan, Proposed floor layout and elevations drawing numbered PSL-1-Information-CB, and Existing and Proposed Front Elevations Plan drawing numbered 001 Rev A dated 28th March 2018 submitted to and received by the Local Planning Authority on 3rd April 2018.

**Reason:** For the avoidance of doubt and to ensure the development is carried out in accordance with the documents assessed in the consideration and determination of the application.

Note(s) to Applicant :

- 1 You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section.
- 2 For the avoidance of doubt this permission does not authorise any development outside the application site including any foundation, footings, fascias, eaves, soffits, verges or guttering.
- 3 You are advised that any amendments to the approved plans will require either a Non-Material amendment application, a Minor Material Amendment application or a new planning application. If this is the case then you should allow at least 8 weeks before the intended start date to gain approval for such amendments. Further advice can be obtained by contacting the Planning Section of the Council on any amendments (internal or external).
- 4 The Application as submitted was considered to be acceptable and therefore discussion with the applicant to seek an acceptable solution was not considered necessary in making this decision. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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

If you are aggrieved by the decision of your local planning authority for the proposed development then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

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If you want to appeal against your local planning authority's decision then you must do so within 12 weeks 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](http://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.

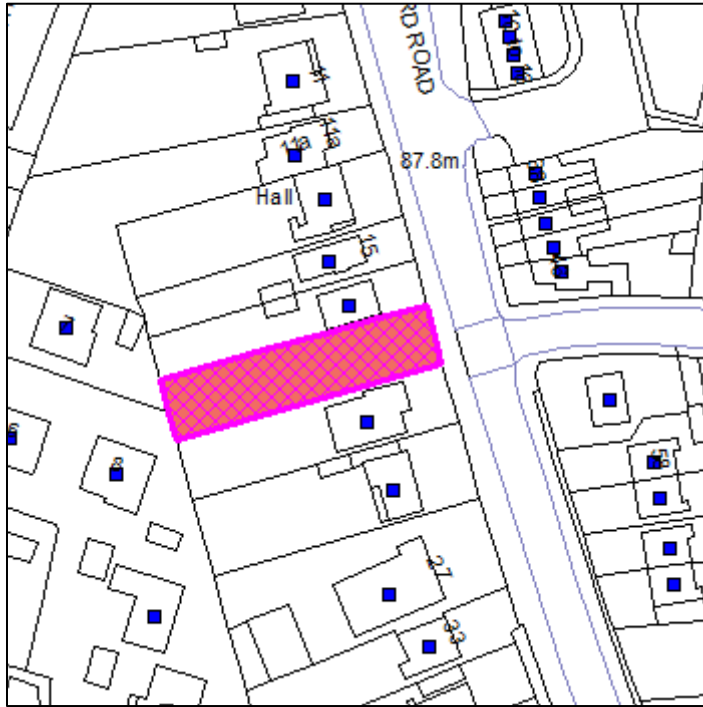
The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements,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

<b>d.</b>	<b>18/00047/FUL</b>	19 Welford Road Wigston Leicestershire LE18 3SP
	29 January 2018	Two storey rear extension, single storey rear extension and enlargement of existing roof (Rev A)
	CASE OFFICER	Tony Boswell



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## Site and Location

Number 19 Welford Road is a "Tudor Walters" styled, hip roofed two storey detached house on the west side of Welford Road a short distance to the south of its junction with Moat Street and Newton Lane. A small garden bungalow cul-de-sac known as The Tofts lies immediately to the rear (west). Immediately to the south of the site on the Welford Road frontage are two further bungalows, although the adjacent number 17 to the north is a typically proportioned two storey semi-detached house.

## Description of proposal

Like the previous application 17/00519/FUL the proposals involve a substantial rebuild of the existing house and is not merely the "two storey rear extension, single storey rear extension and enlargement of existing roof" as described. This rebuilding process is best described as four elements:

- a) The existing ground floor rear would be enlarged by a new single storey rear extension with a "lantern" flat roof extending to a point some 4.7 metres beyond the existing rearward extension.
- b) The first floor rear would be extended rearwards by some 3.7 metres beyond the existing rear main wall.
- c) The existing roof is pitched parallel to the road. An entirely new roof would be added which would also be pitched parallel to the road with two gable fronted dormer windows, but would then become a hipped roof covering the first floor extension mentioned above.
- d) In as much as b) and c) amount to a wholesale remodelling of the existing house, the first floor along both sides and the rear would be completed in rendered finish and the front elevation at first floor level would be in cladding.

The ground floor frontage would remain largely unchanged.

The statutory determination period for this application expired on the 26 March 2018 and it is intended to issue a decision as soon as practicably possible after the committee meeting.

## Relevant Planning History

17/00519/FUL – Proposed loft conversion, rear two storey and single storey extensions. Refused on the 14 December 2017 for the following reason:

*"Welford Road is a major primary route towards and away from Wigston and other destinations to the north. The proposed reconstruction and enlargement of number 19 Welford Road is unacceptably too large in its visual scale. It would fail to contribute positively to the overall quality of the local environment; it is not harmonious in its design, form and proposed external materials. Due in part to its height and to the higher location of number 19 Welford Road the rearward balcony feature at second floor level would represent a threat to the actual and perceived privacy of nearby homes and gardens (notably those within The Tofts to the west). It's proposed overall height and visual bulk is also excessive in proximity to the two bungalows immediately to the south on the main Welford Road frontage over which that proposed visual bulk will be visually very apparent. The proposal would thereby be contrary to paragraphs 59 and 64 of the National Planning Policy Framework; policy CS14 of the adopted Oadby and Wigston Core Strategy and policies LP1 and HP17 of the saved Oadby and Wigston Local Plan (2013)".*

## Consultations

None sought.

## Representations

Seven near neighbours have been informed and a notice placed with 3 letters of representation being received at the time of writing this report. The date for the receipt of comments expired on the 27 February 2018. After receipt of amended drawings a further consultation with those same near neighbours took place on the 26 April 2018, to expire on the 3 May 2018. One reply received reiterating earlier objections as summarised below.

A fair summary of the reasons for objection is as follows: -

- \*From number 17 Welford Road (immediately to the north) Loss of light
- \*Disruption and hazard during construction. (*Officers comment, This is a Party Wall Act issue and not really a material planning consideration*).
- \*"Still too large and will detract from the character of the surrounding area".
- \*Number 19 is above the level of gardens and bungalows in The Tofts to the west. That will emphasise the threat to privacy posed by the rearward extensions.
- \*The name of the current applicant has changed from the previous application (17/00519/FUL) Why? (*Officer's comment, as planning permission runs with the land, the name of the applicant is not a material planning consideration*).

Councillor Bentley has asked that this application be determined by this Committee, citing a neighbour's concern about the legalities of the application – see above point.

## Relevant Planning Policies

National Planning Policy Framework (NPPF)

Oadby & Wigston Core Strategy

Core Strategy Policy 14 : Design and Sustainable Construction

Oadby and Wigston Local Plan

Landscape Proposal 1 (LP1) : Design of new development subject to criteria.

Housing Proposal 17 (HP17) : Criteria for assessing the suitability of domestic extensions.

Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document

## Planning Considerations

After refusal of 17/00519/FUL and a good deal of discussion with officers, unfortunately, the proposed design and its external cladding still appears to emphasise a disparity of visual scale, rather than contributing "*positively to the overall quality of the environment and be carefully related to existing and proposed development*" (Policy LP1 below). This is particularly so in relation to the two bungalows which lie immediately to the south of the site on its Welford Road frontage.

Relevant paragraphs within the NPPF read as follows (Case Officer's emboldening):

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59 ... However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall **scale**, density, **massing**, **height**, landscape, layout, **materials** and access of new development in relation to neighbouring buildings and the local area more generally.

60. Planning policies and 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. **It is, however, proper to seek to promote or reinforce local distinctiveness.**

64. **Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.**

Core Strategy Policy 14 includes:

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;*
- \* **utilises inclusive design principles including layout, orientation, landscape, streetscape, scale, materials, natural surveillance and sustainable construction;** and
- \* *achieves layout and design that is safe, secure and enhances community safety.*

However, the most immediately relevant planning policy are policies LP1 and HP17 of the saved Local Plan:

*LP1 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.*

*HP17 The Local Planning Authority will not grant planning permission for the erection of extensions, outbuildings and garages within the curtilage of residential properties, unless the following criteria are met:*

- 1) The extension or new building is subordinate to the main building and of harmonious design, form and materials;**
- 2) The development does not have an unacceptably adverse effect on the visual amenities of the area;**
- 3) The development does not have an unduly detrimental effect on the amenities of neighbouring residents;**
- 4) *The development does not result in an unacceptable reduction in open space around the dwelling.*

Although the existing garage to be retained is under size to count properly towards the on-site parking provision for the scale of accommodation as proposed, the entirety of the existing front garden is surfaced for parking purposes. Three or more off street parking spaces are therefore available.

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

As proposed the house would be substantially enlarged, notably in its upper part at first floor and roof level. The impacts upon the street scene are emphasised by the fact that there are two altogether smaller bungalows immediately to the south over which those enlargements will be particularly evident. Also, although the use of render has the effect of "lightening" the upper part of the building, it would also serve to make the scale of the enlarged building all the more evident when viewed at any distance. Furthermore, although much reduced in scale from the former proposals in 17/00519/FUL (see earlier), the two frontage dormer windows at second floor level also add to that visual scale.

The impact upon the appearance of Welford Road is fairly profound. Although in the longer term the continued existence of the two bungalows to the south of number 19 may be arguable (they might be redeveloped to become two storey houses at any time), they do influence perceptions of building scale for the time being. Although there are larger and smaller buildings in proximity on Welford Road, it is the apparent disparity of visual scale and prominence that is arguably objectionable.

#### The impact of the proposal on neighbouring residential properties.

The effect upon bungalows in the Tofts to the rear is largely mitigated by distance, due to the length of the rear garden to be retained. Note however that the enlarged house is around 1 metre above the gardens in the Tofts. From the closest approach to gardens in the Tofts the ground floor extension would be some 21 metres away while its upper part would be some 24 metres away – with a "window to window" distance of some 30 metres. The enlarged house would nevertheless be visually very apparent due to its rendered finish, although the fact that it would be visible is not in itself grounds for objection.



The adverse effects upon number 17 Welford Road to the north is also significant. Although number 17 currently extends to a similar distance down the garden to these proposals at number 19, it has a number of significant south facing windows that currently enjoy light and air across the rear garden of number 19. Although rearward extensions of a more normal scale might be more acceptable, the exceptional scale of the current proposals are arguably un-neighbourly and so objectionable.

The adjacent bungalow to the south at number 21 Welford Road does not appear to suffer any adverse neighbourly effects.

## Conclusion

This proposal has been very substantially amended for the better since the refusal of 17/00519/FUL last year. However, its scale, bulk and height are still too large in the locality while its design, form and materials are out of keeping with the area. It is, therefore, recommended for refusal.

## 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 then **Refuse** for the following reason:

- 1 Welford Road is a major primary route towards and away from Wigston and other destinations to the north. The proposed reconstruction and enlargement of number 19 Welford Road is unacceptably too large in its visual scale. It would fail to contribute positively to the overall quality of the local environment; it is not harmonious in its design, form and proposed external materials. It's proposed overall height and visual bulk is also excessive in proximity to the two bungalows immediately to the south on the main Welford Road frontage over which that proposed visual bulk will be visually very apparent. The proposal would, thereby, be contrary to paragraphs 59 and 64 of the National Planning Policy Framework; Core Strategy Policy 14 of the adopted Oadby and Wigston Core Strategy and Landscape Proposal 1 and Housing Proposal 17 of the saved Oadby and Wigston Local Plan (2013).

Note(s) to Applicant :

- 1 In dealing with the application, through ongoing dialogue and the proper consideration of the proposal in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the local planning authority have attempted to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application as required by the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. However, in this instance, it has not been possible to overcome the concerns raised and the proposal remains in conflict with the provisions of the Development Plan and therefore the application has been refused.

## 2 **Appeals to the Secretary of State**

If you are aggrieved by the decision of your local planning authority for the proposed development 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 12 weeks 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](http://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.

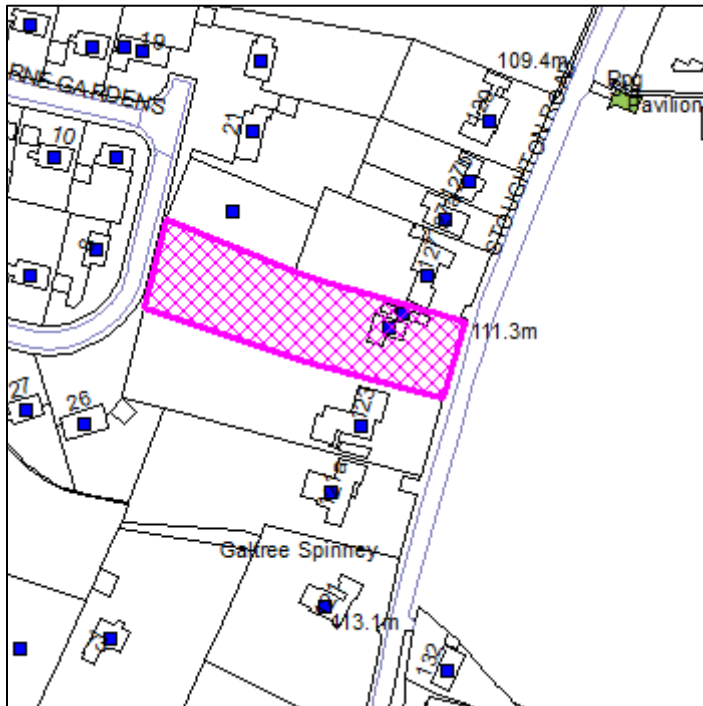
The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements,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

<b>d.</b>	<b>18/00098/FUL</b>	Land to the Rear of 125 Stoughton Road Oadby Leicestershire LE2 4FS
	19 March 2018	Erection of detached dwelling (Use Class C3) with associated access, parking and landscaping
	CASE OFFICER	Tony Boswell



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## **Site and Location**

The application site is currently part of the rear garden to number 125 Stoughton Road, but has frontage to an undeveloped section of Cranborne Gardens to the west. At present that frontage is enclosed by a circa 6 ft close boarded fence and significant tree planting. As applied for the site would have a frontage of 30 metres and a depth of some 45 metres. This would leave a residual garden of some 25 metres (plus) depth to the retained 125 Stoughton Road. Significantly the site includes a number of visually significant trees, although there is no Tree Preservation Order (TPO) in place.

Also significantly, the proposed site lies immediately to the south of a similar site which was the subject of planning permission 17/00422/FUL for a very similar detached house and garden to that now proposed. (Note that this application attracted 3 objections).

Furthermore, immediately on its south side are the rear gardens of numbers 121A and 123 Stoughton Drive which, without access to Cranbourne Gardens, and so with access from Stoughton Road were the subject of application number 17/00302/FUL for a redevelopment in depth to permit a total of four new detached homes in visual proximity to Cranbourne Gardens. This was refused for a number of policy based reasons and the subsequent appeal was dismissed.

## **Description of proposal**

As mentioned below, the proposed house would be very similar to the forthcoming adjacent house permitted under 17/00422/FUL. That in turn is essentially very similar in its scale and elevational approach to the larger homes elsewhere within Cranbourne Gardens as a whole.

After removal of the existing garden fence the existing frontage hedge and the hedge along the southern boundary would be retained (although probably better cultivated over time). A group of smaller trees along and within the boundary with the forthcoming adjacent house would also be retained (See recommended conditions regarding arboricultural matters).

A new driveway entrance would be provided towards the northern part of the frontage – away from the bend in Cranbourne Gardens. In the centre of the site and thus on a similar alignment to the adjacent new house there would be constructed a new two storey detached four bedroom house, with an integral double garage. This is of substantial size with an overall floor area of some 275 sq metres (gross external). The new house would have two built elements, a symmetrical central house, and then an attached but supplementary two storey element on its northern side containing the integral double garage.

Like the remainder of Cranbourne Gardens the new house would feature small pane windows with stone cills and headers. A central gable fronted entrance porch, brickwork in red/brown and a main and supplementary slate roof. Almost all of the fenestration faces fore and aft. Note that a number of secondary windows that did face north towards the adjacent new house have since been deleted at the request of officers.

The statutory determination period for this application expires on the 14 May 2018, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

## **Relevant Planning History**

None Relevant

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## Consultations

Leicestershire County Council (Highways) – No observations received.

OWBC Policy – Incorporated into the report below.

OWBC Environmental Health – No observations received.

LCC Ecology – No observations received.

OWBC Arboricultural Officer

*Tree T10 is surveyed as and shown as Category B (by colour) but as category C (by text) on plans [GL0861 01] and [1720-02rev1 A1]. The accompanying report and Survey Schedule (GL0861 Arboricultural Survey Report) are otherwise good.*

*In order to assess the application and properly consider the implications of the proposed development we would require an Arboricultural Impact Assessment, as detailed within the arb report [section 3.2], to include a finalized tree retention/removal plan with retained trees and root protection areas (RPAs) shown on the proposed layout as well as a Tree Protection Plan [section 3.3 of GL0861]. An Arboricultural Method Statement, if required [section 3.4 of GL0861] can then be by condition, to be discharged and implemented prior to the start of construction. All in accordance with BS5837:2012.*

*Since the majority of trees within the site are of low amenity value this requirement is primarily for third party trees and boundary features, notably T10 the category B,1 Beech tree. Appropriate measures and spacing for this semi-mature tree must be considered before permission can be granted.*

*It should be noted that planning permission for the adjacent plot (17-00442-FUL) includes removal of two stems along the boundary furthest from Carbourne Gardens.*

*Provided the above, I would foresee no reason for objection on arboricultural terms.*

Note by officers. The required Arboricultural Impact Assessment etc have since been received and considered. This did not raise any additional ground for concern.

## Representations

Five near neighbours were notified by direct mail to expire 25 April 2018 and a site notice posted to expire by 26 April 2018.

Three independent letters of objection received, in fair summary making the following points

- \* Design should be in keeping with the neo-Georgian design used elsewhere in Cranbourne Gardens
- \* Access during construction will create a local bottleneck
- \* Will create additional pressure on local sewerage
- \* Windows will overlook the adjacent new house (*permitted last year under 17/00422/FUL*). This point submitted by the owner of that adjacent new house.
- \* Contrary to NPPF paragraphs 53 and 58.
- \* An additional house is not required as 300 new homes are proposed nearby.

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One letter with a petition of 46 signatures has been received with the following text:

*"We write in connection with the above Planning Application. We have examined the plans and wish to object strongly to the development in this location, especially with access from Cranbourne Gardens. The proposed dwelling will overlook our property which will lead to a loss of privacy and cause noise, pollution and dust at all times. The large building vehicles passing constantly will disturb the neighbourhood and also cause damage to the road.*

*There are also safety concerns for motorists and pedestrians as the access to the proposed dwelling is after a blind bend so parking any vehicles along this part of the road will cause obstructions and inconvenience. The road is already quite narrow and any parking on the road will prevent delivery vans and Council waste/recycling vehicles from passing. Currently there are several young children living on the road and at present they are able to ride their bikes and scooters around Cranbourne Gardens without fear of any danger. Allowing numerous building machinery and vehicles constantly passing on our road will cause hazardous conditions.*

*With the current number of houses on the road, there are already sewage issues with Severn Trent having to be called out regularly to clear blocked drains. There have also been issues with Gas pressure reported and any additional dwellings will impact these issues further.*

*Cranbourne Gardens is a quiet cul-de-sac and recently voted as the 12<sup>th</sup> most popular street to live on in Oadby. What makes this street so appealing to live on are the limited number of homes, the peaceful environment and the privacy all the trees and bushes provide. This proposal will jeopardise all of this and the enjoyment in our homes and gardens.*

*All these points are valid for any development on Cranbourne Gardens yet an application for a new development has already been approved (Application 17/00422/FUL). With all the disruption this will already cause a second application should not be approved. Psychologically, an open space and greenery has been shown to reduce stress, help one to relax and is better for mental health. This proposed build, together with the development that has already been approved, will therefore have a significant negative psychological impact on the neighbours at Cranbourne gardens.*

*We ask that Oadby and Wigston Borough Council refuse this Planning Application and encourage the applicant to re-submit a design with access from Stoughton Road only. Looking at the plans there is sufficient access from the side of 125 Stoughton Road to create access and parking for this detached dwelling.*

*Please find signatures from neighbours attached in support of this letter and to act as a petition to object to this planning application. We all agree that a house on Stoughton Road should not be granted access to build a detached dwelling with access from Cranbourne Gardens and benefit financially from being part of an exclusive group of homes when they have ample space to create access from the side of their property...".*

21 identical letters were received from various addresses but contained no names or signatures and, therefore, the origin could not be verified.

## **Relevant Planning Policies**

### National Planning Policy Framework (NPPF)

As a whole, but paragraphs 53 and 58 in particular

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## Oadby & Wigston Core Strategy

Core Strategy Policy 14 : Design and Sustainable Construction  
Core Strategy Policy 15 Landscape and Character

## Oadby and Wigston Local Plan

Landscape Proposal 1 : Design of new development subject to criteria.  
Landscape Proposal 2 Prohibiting backland development subject to criteria  
Housing Proposal 13 Prohibiting infill development subject to criteria

## Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document  
Oadby and Wigston Landscape Character Assessment (Paragraphs 3.3.19 to 3.3.36).

## **Planning Considerations**

As mentioned below, the proposed house would be very similar to the forthcoming adjacent house permitted under 17/00422/FUL. That in turn is essentially very similar in its scale and elevational approach to the larger homes elsewhere within Cranbourne Gardens as a whole.

The National Planning Policy Framework (NPPF) states that local planning authorities should encourage the effective use of land by reusing land that has been previously developed (brownfield land). The definition of previously developed land contained in the NPPF excludes land in built up areas such as private residential gardens. This proposal is seeking to sub-divide an existing residential plot and to develop part of the garden of that plot to erect a new detached residential dwelling.

Paragraph 58 of the National Planning Policy Framework seeks to ensure that developments respond to local character and history, and reflect the identity of local surroundings.

Housing Proposal 13 in the Saved Local Plan (1999) states the following in regard to infill development:

*Planning permission will not be approved for infill residential development unless: the development proposed would not have an adverse impact on the character of the area; and the design of the development would not have an adverse effect on the amenities of adjacent or nearby properties'.*

Core Strategy Policy 14: Design and Sustainable Construction, requires all new development proposals to have '*high quality inclusive design...that respects local character...and is sympathetic to its surroundings*'.

Core Strategy Policy 15: Landscape and Character requires all development proposals to consider the need to protect and enhance the distinctive landscape and historic character of the Borough, reflecting prevailing quality, character and other features.

The Council's Local Plan Submission Draft document was submitted to the Secretary of State in January 2018 and has recently been subject to its Examination in Public. Its policies and supporting evidence should be regarded as a material consideration for all planning applications and/or appeals received since its submission. Emerging Draft Policy 15: Urban Infill Development states should

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nevertheless carry only very limited weight for decision making purposes pending final adoption (hopefully later this year). It is however relevant:

*'Within the urban areas of the Borough, proposals for infill development on previously developed land that are of high quality design, improve the character of the locale, do not have any adverse effect on / or loss of amenity to adjacent properties or nearby properties, and do not cause unacceptable noise, will in principle be considered favourably.*

*Any proposal for development on residential garden land or any other open amenity space around buildings will not be permitted unless it conforms to the guidance set out within the Council's Landscape Character Assessment.*

*Proposals that seek to split existing residential plots and propose development on the garden land of and/or open amenity space of existing plots will not be granted planning permission unless the proposal sits comfortably, is consistent with, in character with, and respects the direct existing street scene in which it is situated. The Council will not accept development proposals that 'over develop' a site from its original intended or existing use.*

*Development proposals would also need to illustrate high quality design and use of materials that are consistent with the character of the area and the existing properties in the direct area'.*

To ensure local distinctive landscape character is conserved and enhanced where possible, the Council produced a Landscape Character Assessment which has been recently updated. Landscape character assessment is a process used to assist in planning and managing landscape change. Landscape refers to both natural features such as landform and water and those which are subject to human management processes such as hedges and woodlands. Landscape also includes man-made constructed features such as roads and buildings. The aim of the Landscape Character Assessment therefore is to define areas with similar landscape character and attributes. This character identified by the Oadby and Wigston Landscape Character Assessment has assisted the Council by robustly informing planning decisions for over a decade and to ensure that this continues, the Council has updated and published the document alongside the emerging New Local Plan (January 2018).

The proposal site is situated within the Oadby Arboretum Landscape Character Area O(ii). According to Paragraph 3.3.19 in the Oadby and Wigston Landscape Character Assessment (2018), the area is characterised by:

- \* *Large plot sizes; large single dwelling plots with no sub-division,*
- \* *High level of tree cover from structured tree planting along streets;*
- \* *High level of specimen tree planting along streets and in gardens;*
- \* *Dominant but attractive roads and street pattern;*
- \* *Impressive building frontages and strong boundary treatments;*
- \* *Large houses/University use set in landscaped grounds;*
- \* *Individually designed historic buildings;*
- \* *Sports grounds and playing fields – open and landscaped;*
- \* *Remnant spinneys;*
- \* *Rationally structured townscape with strong sense of enclosure;*
- \* *Low vehicle presence.*

Policy guidance O(ii)/ 2 `Retain plot size, building size to plot ratio, open space and manage sub-division of plots' suggests that a `characteristic of many parts of the area is relatively large-scale historic buildings, in terms of residential buildings, in spacious plots. Any proposals for the sub-



*division of plots, infill, backland or tandem development, or loss of open space are likely to dilute the overall character and should not be allowed*'. Significantly, that approach was supported by the Inspector in dismissing the recent appeal on the near adjacent case at 121A and 123 Stoughton Road. That case concerned a redevelopment from two existing bungalows to four detached houses, two of which would have been in rear garden backland in visual proximity to Cranbourne Gardens.

Having regard to the above, it is clear that the proposal is out of character with the Oadby Arboretum area as a whole and in principle; sub-division would not normally be allowed. It is, however, noted that Cranborne Gardens is a very unique estate within the Oadby Arboretum Area, with nothing similar elsewhere. Cranborne Gardens is not typical of much of the remainder of the defined Arboretum Area. (It may even be that the Cranborne Gardens development was one of those developments which prompted production of the original Landscape Character Assessment in March 2005). Due to this uniqueness and the principle of sub-division fitting reasonably within the Cranborne Gardens estate, the principle of sub-dividing this plot to accommodate one dwelling, within this proposal' specific location, would be acceptable. Note that the proposed house and its plot are very similar indeed in its scale and elevational appearance to that permitted only recently under 17/00422/FUL, and indeed to the similar neo-Georgian style of Cranborne Gardens as a whole.

In the absence of any policy presumption against the development it is, therefore, necessary to consider any adverse impacts that might affect the normal policy presumption in favour of sustainable development. These can be considered under two headings:

#### The impacts upon the site and its close neighbours.

The proposed house and its integral garage are similar in appearance and scale to that of the adjacent house permitted under 17/00422/FUL. The Committee should note the recommended conditions which are closely allied to those imposed on that previous permission. In broad terms, both new homes are thus similar in character, appearance and scale to the various house types elsewhere on Cranborne Gardens.

At the request of officers a number of flank windows have been removed to avoid any threat to the privacy of that forthcoming house next door. (Note that this was one ground of objection cited by the owner of that new house). There are no other homes in neighbourly proximity, except number 8 Cranborne Gardens some 30 metres opposite and those on the frontage to Stoughton Road to the rear. The nearest of these would be number 125 itself which is not less than 47 metres away.

The site contains a number of visually significant trees and "box" hedgerows. These are the subject of a submitted Arboricultural Report and Survey by Landscape Architects. None of the trees in and around the site are the subject of a TPO or subject to any other protections. The Committee should also note the assessment by this Council's Arboricultural Officer. (Who is currently undertaking a review and updating of TPOs throughout the Borough, and may yet make future recommendations regarding various visually significant trees in and around Cranborne Gardens). Although a number of those existing trees within the site would be removed to facilitate the proposed house, those to be lost are very much those of poorer quality. The generally verdant character of the site and its close surroundings would thus remain.

#### The impacts upon the street scene and wider surroundings.

The proposed house and garage would be clearly visible from the frontage to Cranborne Gardens, sited alongside the very similar house recently permitted under 17/00422/FUL. That new house in

turn is closely modelled on the house types built throughout the Cranborne Gardens estate as a whole.

After any disruption from construction the proposed house would have little long term affect upon the visual amenities of Cranborne Gardens or those homes and gardens more distantly to its rear in Stoughton Road. Although officers have some sympathy with the views expressed by a number of residents, current difficulties alleged with sewerage or local gas pressure cannot lawfully be material planning considerations. (If persistent they might be addressed by the utilities concerned). The objector’s suggestion that the site might better be accessed as “backland” from Stoughton Road would be contrary to a number of relevant planning policies reported or discussed earlier.

Cranborne Gardens as a whole comprises some 25 detached homes and substantial gardens in the form of a road and driveway “loop” which, in any emergency allows access to any home from either of two directions. There is very limited on-street car parking at present. Assuming only that construction related vehicles behave lawfully and using ordinary care and attention, officers cannot see merit in the concerns expressed by objectors regarding highway safety.

### Conclusion

Although many of the concerns expressed by neighbours are entirely understandable, those are not reflected by relevant national and local planning policies and in some cases do not concern material planning considerations. The recommendation is, therefore, that this Committee should grant a conditional planning permission in which the relevant conditions are very much an analogy of those imposed on the adjacent new home permitted under 17/00422/FUL.

### 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 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.

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- 2 Prior to the commencement of development details of all materials to be used externally shall be submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out using the agreed materials.  
**Reason:** To safeguard the character and appearance of the building and its surroundings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 3 Prior to the commencement of site works, full details of the measures to avoid damage to the trees to be retained on site shall be submitted to and approved in writing by the Local Planning Authority. The tree protection measures shall include details of a suitable fixed fence (which should extend to the full extent of the canopy of the tree(s) to be retained unless otherwise first agreed in writing by the Local Planning Authority). The agreed tree protection measures shall be installed on site prior to any site works commencing and shall be retained as such for the duration of construction works on site.  
**Reason:** To ensure that adequate measures are taken to preserve trees and hedges and their root systems whilst construction work is progressing on site in accordance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 4 Prior to the commencement of development a detailed scheme of landscaping and measures for the protection of trees to be retained during the course of development shall be submitted to and approved in writing by the Local Planning Authority.  
**Reason:** To ensure that a landscaping scheme is provided to enhance the development and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 5 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.  
**Reason:** To ensure that an approved landscaping scheme is implemented in a speedy and diligent way and that initial plant losses are overcome in the interests of the visual amenities of the locality and the occupiers of adjacent buildings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 6 Prior to the first occupation of the extension hereby granted permission the access and parking areas shown on the approved plan shall be provided in a bound material and thereafter made available at all times for their designated purposes.  
**Reason:** As recommended by Leicestershire County Council (Highways) in the interests of highway safety and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policy 4.
- 7 Prior to the commencement of development a scheme for the disposal of foul sewage and surface water drainage for the site (based on sustainable drainage principles) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the first dwelling and, unless otherwise first agreed in writing by the Local Planning Authority, shall be maintained as such for the life of the development.

**Reason:** To ensure adequate drainage facilities are provided to serve the development and to prevent pollution of the water environment as recommended by Severn Trent Water Limited and in accordance with the aims and objectives of the National Planning Policy Framework.

- 8 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:  
Hedley Verity's drawing number 1720-02 Rev 1.

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

Note(s) to Applicant :

- 1 In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application and this has resulted in the approval of the application. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

2 **Appeals to the Secretary of State**

If you are aggrieved by the decision of your local planning authority 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](http://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.

## **BACKGROUND PAPERS**

- a. 17/00495/FUL
- b. 18/00045/FUL
- c. 18/00047/FUL
- d. 18/00098/FUL

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