



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, 14 FEBRUARY 2019** at **7.00 PM** for the transaction of the business set out in the Agenda below.

Yours faithfully

Council Offices
Wigston
04 February 2019

Mrs Anne E Court
Chief Executive

<u>ITEM NO.</u>	<u>AGENDA</u>	<u>PAGE NO'S</u>
1.	Apologies for Absence	
2.	Declarations of Interest Members are reminded that any declaration of interest should be made having regard to the Members' Code of Conduct. In particular, Members must make clear the nature of the interest and whether it is 'pecuniary' or 'non-pecuniary'.	
3.	Minutes of the Previous Meeting To read, confirm and sign the minutes of the previous meeting in accordance with Rule 17 of Part 4 of the Constitution.	1 - 3
4.	Petitions and Deputations To receive any Petitions and, or, Deputations in accordance with Rule 24 of Part 4 of the Constitution.	
5.	Report of the Planning Control Team Leader 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	4 - 23



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. 17/00596/COU - 56 Pullman Road, Wigston, Leicestershire, LE18 2DB

b) Application No. 18/00368/FUL - 2 Central Avenue & 14 Long Street, Wigston, Leicestershire, LE18 2AA

6. The Borough Council of Oadby & Wigston (The Firs, Wigston) Tree Preservation Order 2018 (TPO/0337/TREE)

24 - 32

Report of the Arboricultural Officer

For more information, please contact:

Planning Control

Oadby and Wigston Borough Council
Council Offices
Station Road, Wigston
Leicestershire
LE18 2DR

t: (0116) 288 8961

e: planning@oadby-wigston.gov.uk

**MINUTES OF THE MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT THE
COUNCIL OFFICES, STATION ROAD, WIGSTON ON THURSDAY, 20 DECEMBER 2018
COMMENCING AT 7.00 PM**

PRESENT

Councillor Mrs L M Broadley (Vice-Chair, in the Chair)

COUNCILLORS

G A Boulter
F S Broadley
D M Carter
D A Gamble
J Kaufman
Mrs L Kaufman

OFFICERS IN ATTENDANCE

S J Ball (Senior Democratic Services Officer / Legal Officer)
D M Gill (Head of Law & Governance / Monitoring Officer)
R Redford (Planning Control Team Leader)

OTHERS IN ATTENDANCE

R Aston (Speaker, Applicant/Agent)

39. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillors L A Bentley, B Dave, Dr T K Khong, Mrs H E Loydall and R E R Morris.

40. DECLARATIONS OF INTEREST

None.

41. MINUTES OF THE PREVIOUS MEETING

By affirmation of the meeting, it was

UNANIMOUSLY RESOLVED THAT:

The minutes of the meeting of the previous Committee held on 22 November 2018 be taken as read, confirmed and signed.

42. PETITIONS AND DEPUTATIONS

None.

43. REPORT OF THE PLANNING CONTROL TEAM LEADER

43a. APPLICATION NO. 18/00420/FUL - 19 ARNDALE, WIGSTON, LEICESTERSHIRE, LE18 3UF

Mr R Aston spoke upon the application on behalf of the applicant. A copy of the agent's

representations is filed together with this minute at **Appendix 1**.

The Committee gave consideration to the report (as set out at pages 1 - 12 of the agenda) which asked it to determine a planning application for a change of use from a dwelling-house to a residential care home, including two-storey rear and single-storey extensions and alterations together with new vehicular access.

The Committee also gave consideration to an e-mail from Councillor Mrs H E Loydall sent 13 December 2018 in relation to the application. A copy of this e-mail is filed together with this minute at **Appendix 2**.

A debate thereon was had whereby Members accepted that, upon the advice of Officers, there were insubstantial material planning grounds upon which a refusal of permission could be framed or any prospective appeal could be successfully defended. This was because the principle of the change of use was, on balance, considered acceptable given the application site's proximity to the new direction for growth site and that the proposed use would address a specialist care need as identified in the HEDNA forming part of the Council's emerging Local Plan. In such circumstances, the Adopted Core Strategy was not to fetter Members' discretion.

The Committee was also advised that, in view of the amended plans, the proposed development could no longer be considered to harm the character and appearance of the existing property or that of the surroundings nor the amenity of neighbouring residential properties or the safe and efficient use of the highway. It was reiterated that in relation to this application, the Highways Authority were satisfied that a safe and suitable access could be provided, irrespective of past determinations made on access arrangements at Newton Lane as refused in previous applications/appeals.

Notwithstanding the above, a number of Members expressed some reluctance to support the grant of planning permission due to the following items of concern:

1. The property was not easily accessible to or conveniently located in relation to public transport, shops and other community facilities;
2. There were no pre-existing access arrangements via Newton Lane upon which previous applications and appeals had been refused;
3. Increased vehicular movements, highway and pedestrian safety and inadequate on-site parking provision to meet the requirements of a care home; and
4. The visual impact resulting from the scale and bulk of the proposed extensions on the existing street scene and the character of the local area and green wedge.

To mitigate concerns as raised by Members, it was agreed that condition 5 be amended to restrict access to or from the site both on foot and by vehicle and, by way of condition added, that general permitted development rights be removed.

It was moved by Councillor G A Boulter, seconded by Councillor J Kaufman and

DEFEATED THAT:

The application be refused planning permission.

Votes For	3
Votes Against	4
Abstentions	0

It was moved by Councillor D A Gamble, seconded by the Chair and

RESOLVED THAT:

The application be GRANTED planning permission in accordance with the submitted documents and plans, subject to the prescribed conditions as amended (as set out in the foregoing minutes).

Votes For	6
Votes Against	1
Abstentions	0

THE MEETING CLOSED AT 7.43 PM



Chair

Thursday, 14 February 2019

*Printed and published by Democratic Services, Oadby and Wigston Borough Council
Council Offices, Station Road, Wigston, Leicestershire, LE18 2DR*

Agenda Item 5

Application Number

Address

Report Items

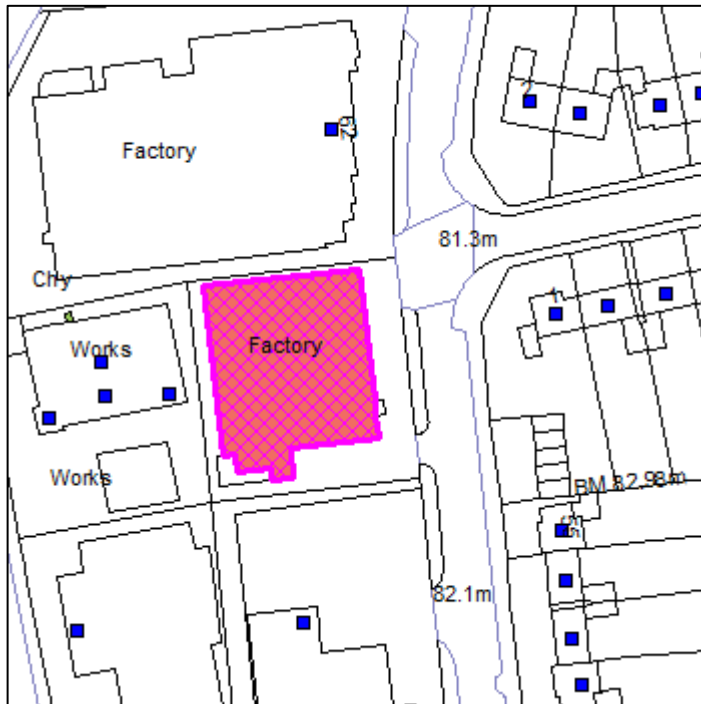
a. 17/00596/COU

56 Pullman Road
Wigston
Leicestershire
LE18 2DB

b. 18/00368/FUL

2 Central Avenue & 14 Long Street
Wigston
Leicestershire
LE18 2AA

a.	17/00596/COU	56 Pullman Road Wigston Leicestershire LE18 2DB
	21 December 2018	Retention of (Use Class A3) cafe use within the premises.
	Case Officer	Tony Boswell



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Site and Location

56 Pullman Road is an industrial building on the west side of Pullman Road, roughly opposite Queens Drive. It is currently occupied by "Loros", a hospice charity who use the building as a whole for receiving goods and re-distributing those goods to in excess of 20 local Loros and Loros affiliated charity shops. It also retails some of those goods as online sales, or to visiting members of the public from the premises. The premises has around a dozen off-street car parking spaces.

The use of the building as a whole is clearly Use Class B8 warehousing with an element of retail, Use Class A1 brought about by visiting customers. On a balance of probabilities this appears to be a lawful use, as the previous occupants of the building were Parkside Tiles who also undertook an element of retail use from the same premises, and for a period in excess of ten years.

Description of proposal

The "café" use to which this application relates occupies approximately 7% of the overall floor space of the building, with a total of 18 seats for visiting customers. These might be visiting "retail" customers or passing trade. The use also includes a kitchen on the south side of the building. The café floor area is partitioned from the remainder of the premises by chest high internal screens and is comparable in scale to an in-house staff canteen. (Which would not serve the general public or passing trade).

The statutory determination period for this application expires on the 15 February 2019, and it is intended to issue a decision as soon as practicably possible after the Committee meeting.

Relevant Planning History

None Relevant to the proposed café use

Consultations

OWBC Environmental Health : No observations.

OWBC Forward Plans (Summary)

The unit is located within the Chartwell Drive / West Avenue / Pullman Road / Clarkes Road Identified Employment Area and is classified as 'Core Employment Area' in the Employment Sites Supplementary Planning Document (2011) Policy 1

Supplementary Employment Policy 2 - Core Identified Employment Areas, in the Employment Sites Supplementary Planning Document (2011), as set out below, states that:

"Proposals for the re-use or redevelopment of sites or premises within Core Identified Employment Sites for non-B Class uses will be resisted"

As part of the supporting evidence base for the New Local Plan, the Council published an Employment Land and Premises Study (2017). This document suggested that the Chartwell Drive / West Avenue / Pullman Road / Clarkes Road Identified Employment Area should continue to be classified as a 'Core Employment Area' because it is one of the healthiest

employment areas in the Borough. Therefore, this proposal should be assessed against the relevant criteria as set out in draft Local Plan Policy 25, as set out below:

'Policy 25 Protecting Identified Employment Areas

Identified Employment Areas (illustrated in the Council's Adopted Policies Map) will be protected from inappropriate development, redevelopment and change of use. The Council will also seek to enhance the identified areas through appropriate development. In accordance with guidance set out in the Council's Employment Sites Supplementary Planning Document and the Employment Land and Premises Study, the 'Core' Identified Employment Areas will be safeguarded for B1a, B1b, B1c, B2 and B8 uses only. Any change of use from a B class use will not be permitted'.

In addition to this, paragraph 8.6.7 of the New Local Plan states that:

'Identified Employment Areas that are classified as 'Core', are the most important employment areas within the Borough, perform well and are predominately within B Class Use. Any proposal for development of a non B Class Use on Identified Employment Areas classified as 'Core' will not be permitted'.

Paragraph 86 of the National Planning Policy Framework states that:

'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered'.

A Use Class A3 café would be deemed as a use most suited to a town, district or local centre and No. 56 Pullman Road is not within a town, district or local centre, nor within an edge of centre location.

Representations

Nine nearby premises were notified by direct mail and a site notice was posted, all to expire by 4 February 2018. No responses have been received at the time of writing.

Councillor Loydall has also made representations on the application and has asked that this case should be determined by this Committee. Her concern is that it would be inappropriate to permit such a non-employment use within an allocated Employment Site.

Relevant Planning Policies

National Planning Policy Framework

Paragraph 86 in particular

Oadby & Wigston Core Strategy

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

Saved Oadby and Wigston Local Plan

None relevant

Emerging Draft New Local Plan

Policy 25 : Protecting Identified Employment Areas

Employment Sites Supplementary Planning Document

Policy 1 : Identified Employment Sites Hierarchy

Policy 2 : Core Identified Employment Sites

Planning Considerations

This application was initially received in December 2017 but was initially found to be invalid. Officers sought to prompt remedies to the deficiencies but, most unfortunately the applicant's Manager dealing with the matter then died without responding. Unaware that planning permission had not been granted Loros then introduced the café use into the premises – apparently unaware. It has since been trading for several months and the title of the application was hence changed to upon eventual validation to "Retention of" to reflect that fact.

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

The Conflict with Planning Policy seeking to Safeguard Employment Use

The use of part of the premises as a café within Use Class A3 is clearly contrary to Policies 1 and 2 of this Council's Employment Sites Supplementary Planning Document (2011). It will also be contrary to Policy 25 of the new Local Plan upon its formal adoption later this year. Those policies seek to prevent any "inappropriate" change of use from Use Classes B1a, B1b, B1c, B2 and B8 – specifically to ensure the continued availability of suitable premises within the Borough for employment purposes.

The primary use of the premises is clearly Use Class B8, while the café use to which this application relates is Use Class A3. That café use is not just ancillary to the primary use as, while the café will happily serve visiting retail customers, its real target market is passing trade on Pullman Road. In conversation, an employee of Loros has made clear that having regularised the planning title by receiving a lawful planning permission, they anticipate a more active marketing campaign by mail drops or similar measures to the many local employers as a venue for sale of hot drinks, breakfasts or lunches. The applicants thus visualise the café use as being supplementary to and/or supportive of local businesses and their employees.

Any Tangible "Harm" that might arise from the café use

The premises have something in excess of a dozen accessible off-street car spaces and are hence capable of receiving passing trade without the creation of any significant traffic hazard. There is no residential accommodation in proximity that might suffer from noise, smells or similar objectionable impacts. The absence of objection from Environmental Health Officers is, therefore, significant.

The absence of a Sequential Test for the café Use

The provision of a sequential test in this instance would normally be required by virtue of the proposal representing a town centre use situated outside of any defined town or local centre. However, the absence of the Sequential Test may not be of significance in this particular instance. A Sequential Test would normally be an assessment that seeks to demonstrate that any "Main Town Centre Use" is not capable of being accommodated within or, if necessary, adjacent to a Town Centre with a café (along with restaurants, drive through restaurants, pubs and bars) being uses to be located in such locations. However, given the provisions of policies 1 and 2 of the Council Employment Sites SPD (2011), Core Strategy Policy 1 and Policy 25 of the emerging Local Plan as set out above, the site is located within a designated Core Employment Area where no uses outside of B1, B2 and B8 will be supported meaning that the provision of a sequential test would not result in any change to the position that the proposal conflicts with adopted and emerging policy.

Conclusion

Although clearly contrary to Policies 1 and 2 of the Employment Sites SPD and Policy 25 of the emerging Local Plan, the "test" for this Committee as the decision maker is whether the café use within the unit as a whole would prevent the continued use of those premises for its primary use within Use Class B8 (warehousing) or over time, for other uses within Use Classes B1a, B1b, B1c, B2 and B8.

In the absence of any apparent threat to local amenity or the creation of any apparent traffic or similar hazard, Officers assessment is that the continuation of the café use would threaten the objectives or the purposes of policies 1 and 2 of the Employment Sites SPD and Policy 25 of the emerging Local Plan. This type of un-compliant non-ancillary or secondary use is also of a type that is likely to be repeated elsewhere under similar circumstances.

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, **REFUSE** for the following reason:

- 1 The proposed use as a café, the retention of which is the subject of this planning application, is within Use Class C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) would threaten the continued use of the premises as a whole for Warehouse purposes within Use Class B8. The Council's relevant planning policies seek to safeguard this and other premises within the Chartwell Drive / West Avenue / Pullman Road / Clarkes Road Identified Employment Area solely and only for employment purposes with Use Classes B1a, B1b, B1c, B2 and B8. This type of un-compliant non-ancillary or secondary use is also of a type that is likely to be repeated elsewhere under similar circumstances. The use is thereby contrary to the

objectives of policies 1 and 2 of the Oadby and Wigston Employment Sites SPD and Policy 25 of the emerging Oadby and Wigston Local Plan.

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 (paragraph 38) 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.

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

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.

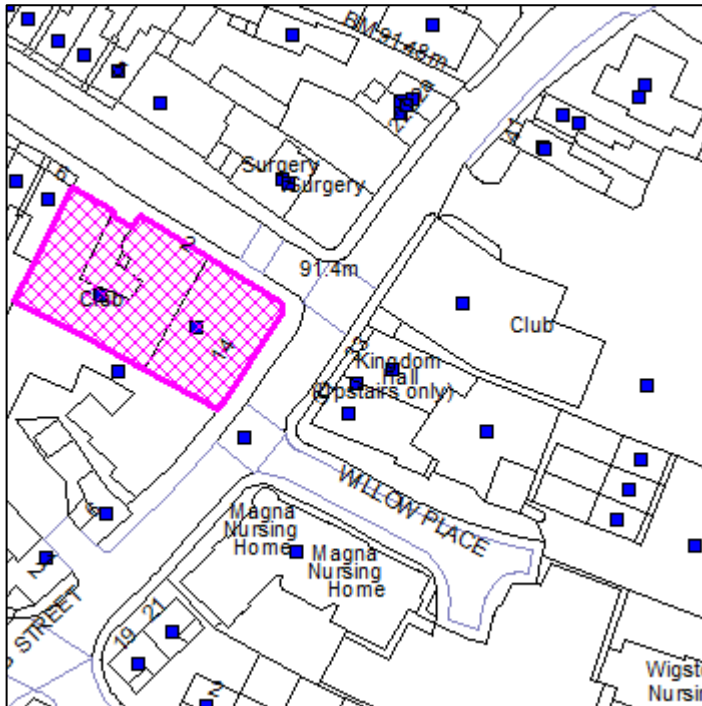
The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, 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.	18/00368/FUL	2 Central Avenue & 14 Long Street Wigston Leicestershire LE18 2AA
	20 August 2018	Change of use from snooker hall (Use Class D2) to 12 residential units (Use Class C3), partial demolition to create car park and associated works
	Case Officer	Tony Boswell



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Site and Location

The application site as a whole comprises buildings to the south west of the junction of Long Street and Central Avenue, Wigston. This includes the former Coop building fronting Long Street, the ground floor and basement of which is currently occupied as a gymnasium. It also includes the return frontage to Central Avenue, The Winchester Snooker Club and unrelated former workshop buildings, all with frontage to Central Avenue. At present much of the floorspace concerned is greatly underused.

The site lies within the Lanes Conservation Area and is a short distance to the south of Wigston town Centre. Note that the Winchester Snooker Club is within Appendix 6 of the saved Local Plan as a "Significant Local Building".

Description of proposal

The central purpose of this application seeks a change of use from the current uses of the buildings to provide a total of 12 one and two bedroomed flats. Note, however, that the existing gymnasium on the ground floor frontage to Long Street is to be retained. Also note that certain minor buildings to the rear of the Winchester would be demolished to better enable use of a rearward yard to enable five off-street parking spaces and better access arrangements, light, air and outlook to certain of the flats as proposed.

When submitted the scheme involved 13 flats, but that proposal was subsequently amended to 12 flats in order to better meet this Council's floor space objectives and, also to improve the elevational treatment notably on the frontage to Long Street at roof level.

Elevationally there is a significant amount of minor works proposed which should aid the longer term preservation of the buildings concerned, and hence their contribution to the character and appearance of The Lanes Conservation Area. At the rear of the gymnasium is a disused former gateway which would be refurbished giving access to a new "bin store" to serve all of the proposed flats.

The 12 flats as proposed would be arranged as follows:

5 x one bedroomed flats of between 69 and 51 sq metres (including internal storage) within the upper floor and roof space of the former Coop building re-using existing windows and new skylights in the rearward face of the roof.

Within both floors of the Winchester. 2 x two bedroomed flats and one single bedroomed flats of between 76 sq metres and 50 sq metres. Those are entirely dependent on re-use of existing windows and door openings. The architectural significance of that building is thereby respected.

Within the two storey "workshop" building at the western end of the site (adjacent to the first house in Central Avenue), 4 x one bedroomed flats with internal floor area of between 50 and 57 sq metres.

All of the flats concerned meet or exceed the minimum floorspace requirements set out in the "Technical Housing Standard – Nationally described space standards", and would be accessed via the enlarged central courtyard described earlier.

The statutory determination period for this application expired on the 7 December 2018, and it is intended to issue a decision as soon as practicably possible after the Committee meeting.

Relevant Planning History

None Relevant

Consultations

Leicester County Council Lead Local Flood Authority – Indicate that further information is required in relation to drainage.

Leicestershire County Council (Highways) – “The Local Highways Authority advice is that, in its view, the residual cumulative impacts of the development can be mitigated and are not considered severe in accordance with the NPPF (2018), subject to the conditions recommended” (Recommend two conditions and an informative).

Leicestershire County Council (Heritage Team) – No response received.

Leicester Fire and Rescue Service – No response received.

Leicester and Rutland CCG – No response received.

Leicester Ambulance Service – No response received.

Leicestershire County Council (Contributions Team) – No contributions required to support local Library Services. No contributions required to support local Education provision. No contributions required to support local Civic Amenity provision.

Leicestershire Constabulary (Architectural Liaison Officer) – No formal objections in principle. Make suggestions regarding external security lighting, CCTV and similar measures.

Severn Trent Water Ltd – No response received

Wigston Civic Society – No response received

Western Power Distribution – No response received

OWBC Environmental Health – Made comments and observations regarding construction management. Some of which is not relevant to planning control

OWBC Forward Plans – Comments have contributed to the report which follows. Point out that three “affordable homes should be provided and a contribution of £6,790.60 towards local Open Space, Sport and Recreation facilities.

OWBC – Town Centre Manager – “I have no objections to the Change of use for these properties. All town centres need mixes of uses and C3 would mean more people living in Wigston to use the other facilities”.

Representations

21 near neighbours notified by direct mail and a site notice posted as the development may affect the Character and Appearance of the Conservation Area, all to expire by 18 October 2018. Also advertised in the Leicester Mercury as May affect the Character and Appearance of the Conservation Area. That press notice expired on 25 October 2018.

At the time of writing 109 letters of objection have been received.

The reasons for objection can be summarised as follows: -

- * Loss of The Winchester Snooker Club, both as an employer and as a popular local amenity which attracts players from a wide area. Has some 6000 members.
- * Absence of sufficient off-street car parking capacity for 13 flats proposed. This will aggravate existing competition for limited on-street parking capacity on Central Avenue (in particular).

When the applicants took note of the number of written objections to the scheme, they also supplied the following text in explanation of their proposals:

"As I am sure you are aware, there have been many objections against our plans for redevelopment, almost all objecting on the grounds of losing the snooker club. Because of this, I understand the decision will go to committee. My uneasiness lies in knowing that these amounting objections will carry weight when the committee makes its decision, with almost no support in favour of the development.

I am writing with the hope that that the following points could be shared with the committee and give fair reasoning for the predicament at hand.

It would appear that the public view us as greedy developers because of this planning application, with no regard for the snooker club. However, you must know that this is far from the truth. In reality, it was my father, Christopher Long, and my uncle, James Long, who started the snooker club in 1986. After James passed away, the business was handed down to his two sons in an act of benefaction, who later sold it. The significance of this is clear: the snooker club has a long standing emotional attachment with Long Brothers and I can assure you that placing this planning application was no easy decision.

We are empathetic to the members of the snooker club and can fully appreciate their concerns. In light of this redevelopment, the current tenant has been given six months to find other premises to continue the snooker club business, and, being mindful of the objections, has been given a further three months. The hope is that this relieves pressure and gives more time to find a suitable location.

Despite our consideration for the club and its members, there are many reasons as to why it should be given planning permission. Firstly, we, as property developers and owners, have a fiduciary responsibility to care for the building. As you will be aware, the building is over one hundred years old, and in desperate need of considerable efforts to protect it. To do nothing would be a dereliction of our duty towards the building.

Secondly, we simply cannot maintain the building at the current rental income we receive from the snooker club. We have considered a rise in rent needed for maintenance. However, knowing the figures in the snooker club's accounts, this would affect the club's business and risk insolvency. We wish to avoid this at all costs as members would lose the club regardless. Therefore, the window in which the snooker club has been granted to find

alternative premises is its leading chance of continuity. This is now in the hands of the business owner.

A more holistic aspect of this development is its economic overview. We would provide highly sought after, quality, one & two bedroom apartments. They would be perfect for first time buyers and young couples who are seeking to step on the property ladder. A niche in which the economy and government is applying increasing pressure and demand. We have also been approached by local tradesmen and suppliers whom operate in the Wigston area, who have expressed their desire to partner with us on this project. Thus, we will provide the local community and economy with the scope to benefit from this development.

This redevelopment is the best course of action to take in order to look after a building of interest, within the conservation area. Allowing us to carry out the major redevelopments needed, and invest heavily to restore it. Long Brothers are renowned quality developers with a mission to bring an abundance of housing to the market. In years past, we have developed for housing associations, including Willow Place Wigston Magna which is located just opposite the snooker club. This development, too, was met with objections, but went on to win an award presented by the Wigston Civic Society for enhancing the immediate vicinity and improving the Wigston environment”.

Relevant Planning Policies

National Planning Policy Framework (NPPF)

Oadby & Wigston Core Strategy (2010)

Core Strategy Policy 10 : Community Infrastructure
Core Strategy Policy 11 : Affordable Housing
Core Strategy Policy 14 : Design and Sustainable Construction
Core Strategy Policy 12 : Housing Needs of the Community

Saved Oadby and Wigston Local Plan (2013)

Landscape Proposal 1 : Design of new development subject to criteria

Emerging Oadby and Wigston Local Plan (2019)

Policy 13 : Affordable Housing
Policy 31 : Use of Upper Floors within the Centres of Wigston, Oadby and South Wigston
Policy 41 : Development in Conservation Areas

Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document
Conservation Areas Supplementary Planning Document
South Wigston Conservation Area Appraisal

Planning Considerations

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

- * The Commercial Viability of the Scheme.
- * The provision of 12 additional local flats

- * "Loss" of The Winchester Snooker Club
- * The impact upon The Lanes Conservation Area
- * The impact of the proposal on the street scene
- * The impact of the proposal on neighbouring residential properties.

The Commercial Viability of the Scheme

At a relatively late stage in consideration of the proposal the applicants submitted a "Viability Assessment" of their proposals. The evaluation of that Assessment has somewhat delayed the preparation of this report and recommendation. This Viability Assessment asserts that the various costs involved in their proposals would not support the policy requirement for Affordable Housing and other Section 106 provision of local infrastructure.

The evaluation of such Viability Assessments was altered very significantly by revisions to the NPPF which came into effect in July 2018. At the same time the definition of policy compliant "affordable housing" was substantially broadened and that definition now includes affordable housing for rent at not less than 20% below local open market rents; "Starter Homes"; Discounted Market Sales housing at 20% less than local market value, and various routes to shared ownership. The changes to the method of assessing submitted viability assessments are based upon increasing the "transparency" of the entire process and reducing the potential for evasion of planning obligations through occasionally spurious claims about the viability of projects. Thus the figures as submitted are generally not to be regarded as commercially sensitive (other than the protection of personal information under the General Data Protection Regulation).

Although the issues in analysing this project are complex and subject to a good deal of estimation and "interpretation", the applicant's consultant's initial conclusion based on their estimate of all of the relevant project costs was:

"Based on these inputs, the output residual land value calculated by our appraisal is £376,197. This is significantly less than the Benchmark Land Value of £428,000 and we therefore conclude that the scheme is not sufficiently viable to support any planning contributions"

This appraisal on behalf of the applicant was then analysed by this Council's appointed viability consultant. His conclusion was:

"The returns to developer and land owner are in both cases, generous and competitive and sufficient to incentivise the scheme to come forward. The scheme will support therefore Affordable Housing (2.4 units) and £9,750 towards open space" (Note that this figure was based on the originally proposed 13 flats).

The applicant's consultant was given the opportunity to comment upon the observations by the Council's own consultant. They did this and in the process they referenced lower revenue estimates and higher build costs, however, having considered those referenced estimates and costs the Council's consultant reiterated their original conclusions as reported above.

The relevant DCLG Planning Policy Guidance (PPG) includes:

"The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning the plan is up to date, any change in site circumstances since the plan was

brought into force, and the transparency of assumptions behind evidence submitted as part of the viability assessment”.

(Paragraph: 008 Reference ID: 10-008-20180724)

Given that only three affordable homes are required to comply with Core Strategy Policy 11, Emerging Local Plan Policy 13, plus Section 106 contributions of £6,790.60 (to the provision of local open space), the gross reduction in development value from planning obligations might well be in the order of (say) £90,000. (This assumes simply that three flats are sold at 20% below open market value). Officers’ conclusion is that the development of circa £1.7 million (overall revenues) is capable of delivering that order of policy compliant public benefit. The recommendation which follows is, therefore, that permission be granted subject to conditions, and a Section 106 obligation relating to the provision of three affordable homes and an appropriate contribution towards local open space provision.

The provision of 12 additional Local Flats

The creation of 12 additional homes within the Wigston area is, of course, beneficial. It would also be in direct implementation of OWBC Core Strategy Policy 1 “Spatial Strategy for Development in the Borough of Oadby and Wigston”. In addition, as a scheme of over 10 dwellings, x some 2.4 of those new homes will be “affordable homes” in accordance with Core Strategy Policy 11 “Affordable Housing”. (i.e three affordable homes as a provision within the anticipated Section 106 Obligation).

“Loss” of the Winchester Snooker Club

This issue is by far the most significant of the many public objections that have been submitted to the scheme. There is a large area of settled planning law regarding the ability of any Local Planning Authority to refuse planning permission for a proposed development in order to preserve an existing use – in preference to the development as proposed. The relevant case law includes as obiter dicta:

“In a contest between the planning merits of two competing uses, to justify a refusal of planning permission for use B on the sole ground that use A ought to be preserved, it must, in my view, be necessary at least to show a balance of probability that, if permission is refused for use B, the land in dispute will effectively put to use A”.

In this light and a number of similar cases regarding that same issue, the material question for the Council must be that if planning permission were refused for the current scheme, is there a confident expectation that The Winchester Snooker Club would still be in its current location in (say) five years from now – or indeed in ten years from now? Although the Snooker Club is currently a very popular venue, in the view of officers there can be no such confidence that the Snooker Club in its current guise would remain at its current location over time. Note the letter from the applicants quoted from earlier which makes clear that the Snooker Club have already been given notice, hopefully to acquire alternative premises.

The impact upon The Lanes Conservation Area

The scheme as proposed preserves the externals of the existing buildings, other than the replacement of fenestration, resurfacing etc etc. At present many of those buildings are somewhat aged and becoming dilapidated. It is perhaps unfortunate that the former Coop building on the frontage to Long Street was whitewashed some years ago because, as a key building within the Conservation Area, it appears to have been a very well detailed “prestige” building. Unfortunately, it is not possible to remove that whitewash without

significant damage to the building as a whole. Note that no changes are proposed to the ground floor frontage and shop fronts (which will contain the retained ground floor gymnasium). As a result of amended drawings some skylights which were to be inserted at roof level behind the parapet would now be relocated onto the rear face of the roof and so no longer visible.

Other buildings to the rear on the Central Avenue frontage would be generally restored. New gates would be installed to the rear of the former Coop which would provide a discrete access to a new bin store for the use of all of the flats concerned. The existing gates further to the west of the existing Snooker Club would also be restored, that gate would then provide access to a total of 5 off-street parking spaces in the yard area at the rear.

A number of minor rearward structures would be demolished at the rear to better enable the use of that yard area, and also to enable better light, air and outlook to some of the proposed flats. Although Leicestershire County Council Heritage have yet to make final comments, none of those structures appear to be of heritage value in themselves.

Although none of the retained buildings are of listable quality, they are clearly of heritage value. The external materials and finishes indicated on submitted drawings are of suitably high quality. Conditions are recommended to ensure that the quality of external materials, components and finishes are of appropriately high quality.

The impact of the proposal on the street scene

The visual impacts of the scheme upon the street scene are broadly beneficial, noting, however, that the existing frontage to Long Street (the gymnasium) would remain unchanged. External brickwork, external painting and fenestration would generally be refurbished. The internal elevations to the internal courtyard would be more extensively refurbished, including the entrances to proposed flats.

A significant visual improvement should arise from removal of two "ad hoc" parking spaces from the forecourt to the building where the limited area to the rear of the pedestrian footway is frequently occupied by parked cars. That would be the implication of the condition recommended relating to new surfacing.

The impact of the proposal on neighbouring residential properties.

There do not appear to be any neighbourly implications due to loss of light or overlooking etc, as all of the buildings concerned are already in existence. There are no new openings or windows that face outwards.

One important implication for residents of Central Avenue would be a change to the availability of on-street car parking capacity. As noted earlier there would be a total of 12 x one and two bedroomed flats. Although those flats would be in a very central location and so less likely to involve households that are dependent upon use of cars, for the purposes of this assessment it would be as well to assume that most of those households would be car users.

As noted earlier, only five off-street car spaces are to be provided within the central courtyard area. Although the developers also own additional spaces off site, the future of those off-site spaces cannot be assured. Those off-site car spaces are intended to be reserved for future users of the retained gymnasium. Thus, there is a prima facie deficit of some $12 - 5 = 7$ car spaces, which might be expected to park nearby, very probably on

Central Avenue. However, it is apparent from many of the objectors who support retention of The Winchester Snooker Club that many of its customers travel to the club from some distance away. Presumably those snooker players also park on or near to Central Avenue? In the future absence of the Snooker Club and its parking implications, in the view of officers the impacts of on-street car parking arising from the proposed flats is likely to be minor or nil. Additionally, it is noted that the Highway Authority has commented no objections on highway grounds.

Conclusion

The provision of 12 x one and two bedroomed flats in such a central and accessible location would clearly be a significant benefit to the Borough's local housing supply. By providing a sustainable economic future to the existing buildings, their future and their contribution to the character and appearance of the Conservation Area is also of benefit – given their current state of partial dereliction and without any longer term future.

The imminent loss of the Winchester Snooker Club as an important local social facility and sporting event is clearly very regrettable. However, the current proprietors have apparently been given some nine months in which to locate an alternative venue. Any refusal of permission in order to retain the Winchester Snooker Club would clearly be procedurally unsound – and arguably unlawful.

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 **GRANT:**

Subject to the completion of a suitable Section 106 Agreement by the 1 June 2019 to provide that three of the twelve flats hereby permitted shall be "affordable homes" and for the reasons set out in the above report, and a contribution of £6,790.60 towards local open space provision.

- 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 No part of the development hereby permitted shall be commenced until an illustrated and annotated Schedule of Works has been submitted to and approved in writing by the Local Planning Authority. In particular that Schedule shall address:

- * All of the new or altered window and door details forming part of The Winchester Snooker Club in its restored condition
- * All of the new windows or doors to be inserted into any one or more of the buildings concerned
- * Any repairs or remediation to be made to any of the roofs or rainwater goods to any of the retained buildings concerned.
- * Any alterations to external wall finishes throughout the scheme.
- * All external surfacing to the internal courtyard and the street frontage to Central Avenue.

Reason: To safeguard the finished appearance of the buildings concerned and the contribution which they make to the character and appearance of the Lanes Conservation Area.

- 3 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:

Stainforth Architect's drawings numbered 1415-PO1B; 1415-PO2A; 1415-PO3A; 1415-PO4F; 1415-PO5C; 1415-PO6B; 1415-PO7B.

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

- 4 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 the Lead Local Flood Authority and in accordance with the aims and objectives of the National Planning Policy Framework.

- 5 The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with drawing number PO4 revision F dated 12 November 2018. Thereafter the on-site 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 the National Planning Policy Framework (2018).

- 6 The development hereby permitted shall not be occupied until such time as secure cycle parking shall be provided in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Thereafter the cycle parking shall be maintained and kept available for use.

Reason: To promote travel by sustainable modes in accordance with the National Planning Policy Framework (2018).

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 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 (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 3 The Leicestershire Highways Authority would advise that due to the location of the proposed development the Applicant investigates and applies for appropriate licences eg footway closures and scaffolding licences in good time . For further information please telephone 0116 3050001.

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

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. 17/00596/COU

b. 18/00368/FUL

Agenda Item 6



Development Control Committee	Thursday, 14 February 2019	Matter for Information and Decision
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Report Title: **The Borough Council of Oadby and Wigston (The Firs, Wigston) Tree Preservation Order 2018**

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

Purpose of Report:	The purpose of this report is to seek a decision from the Committee to confirm or otherwise The Borough Council of Oadby and Wigston (The Firs, Wigston) Tree Preservation Order 2018 ("the Order") which was made on 20 August 2018.
Report Summary:	The Order was created as it was considered expedient in the interests of amenity. The trees covered provide significant amenity and have a good safe useful life expectancy in this prominent location.
Recommendation(s):	That the Borough Council of Oadby and Wigston (The Firs, Wigston) Tree Preservation Order 2018 be confirmed without modification.
Responsible Strategic Director, Head of Service and Officer Contact(s):	<p>Anne Court (Chief Executive) (0116) 257 2606 anne.court1@oadby-wigston.gov.uk</p> <p>Adrian Thorpe (Head of Planning, Development and Regeneration) (0116) 257 2645 adrian.thorpe@oadby-wigston.gov.uk</p> <p>Michael Bennetto (Arboricultural Officer) (0116) 257 2697 michael.bennetto@oadby-wigston.gov.uk</p>
Corporate Priorities:	<p>Balanced Economic Development (CP3)</p> <p>Green & Safe Places (CP4)</p> <p>Wellbeing for All (CP5)</p>
Vision and Values:	<p>Accountability (V1)</p> <p>Customer Focus (V5)</p>
Report Implications:-	
Legal:	All legal requirements have been fulfilled and interested parties are to be informed of confirmation as soon as reasonably practicable.
Financial:	There are no implications directly arising from this report.
Corporate Risk Management:	No corporate risk(s) identified.
Equalities and Equalities Assessment (EA):	There are no implications arising from this report. EA not applicable.
Human Rights:	There may be implications under Articles 1 and 8 of the Protocol

	No. 1 to the European Convention on Human Rights regarding the right of respect for the peaceful enjoyment of possessions and a person's private and family life and home. However, these issues have been taken into account in the determination of this Order.
Health and Safety:	There are no implications arising from this report.
Statutory Officers' Comments:-	
Head of Paid Service:	The report is satisfactory.
Chief Finance Officer:	The report is satisfactory.
Monitoring Officer:	The report is satisfactory.
Consultees:	All persons interested in the land affected by the Order.
Background Papers:	Town and Country Planning Act 1990 Part VIII, Chapter I, Trees. The Town and Country Planning (Tree Preservation)(England) Regulations 2012 Human Rights Act 1998 Protocol No. 1 to the European Convention on Human Rights Application No. 03/00562/8M
Appendices:	1. TPO - The Firs, Wigston (Provisional)

1. Information

- 1.1 A provisional Order was made on the 20 August 2018. In compliance with the 2012 Regulations, copies of the Order were served on the owners of the trees and adjoining neighbours on 22 August 2018.
- 1.2 The Order was made in reaction to the apparent threat to the trees upon seeing heavy machinery in place to remove the soft landscaping to extend parking provisions at No.2 and No.3 The Firs, similar to that carried out previously by the owner-occupier of No.1 The Firs.
- 1.3 The Firs Public House used to stand on this site. It was permitted to be demolished and 45 dwellings constructed in its place (application no. 03/00562/8M). Conditions 7, 8, 9 of the planning permission specified the requirement for: protective fencing, the retention of shrubs and hedges; and that no trees were to have works carried out on them until 12 months after completion. Condition 10 specified that the garages were to be kept continuously in use as garages and not to be converted for any other purpose.
- 1.4 Building Control completion certificates were issued between March and May 2005 for the respective properties and all plots in March 2007 which would imply the '12 months after completion' ended in March 2008.

2. Objections

- 2.1 Objections have been received from two of the properties affected by the Order.
- 2.2 The owner-occupier of No.1 The Firs made an objection on the grounds that:
 - (i) The tree has been unsympathetically pruned in the past;
 - (ii) Branches have fallen off the tree/been hit by traffic;
 - (iii) Roots are causing upheave to the front porches;

- (iv) Pine needles have caused a car engine bay fire;
- (v) Pine trees drop pine cones;
- (vi) Concerned parents have complained that the berries are poisonous;
- (vii) The pavement is messy; and
- (viii) The cost of applying for works.

2.3 The owner-occupier of No.3 The Firs submitted representation on the same grounds above.

2.4 These objections are addressed below.

3. Officers' Comments

- 3.1 Some of the objections can be categorised as 'causing harm by virtue of their natural characteristics'. The courts expect a reasonable person to accept the fall of leaves etc. as a seasonal occurrence over which the tree owner has no control (i.e. they are trees, that's what they do).
- 3.2 (i) - Tree T1 is a middle-age Yew tree which has been pruned asymmetrically during the construction. As conditioned within the development's planning permission, no works were to be carried out on the trees without prior permission. No permission for such tree works is apparent from records. Fortunately, Yew trees are one of the few coniferous species that regenerate from stem wood and could, if left untouched, form a full canopy again.
- 3.3 (ii) - It is claimed that passing buses have broken off encroaching branches. Where a tree encroaches onto the highway there is no responsibility, per se, to abate the nuisance. However, the Highway Authority can require the tree owner to remove branches causing an obstruction and, if necessary, carry out the work itself at the owner's expense. A tree owner has a duty of care to take reasonable care to avoid acts or omissions which he or she could reasonably foresee may result in harm or injury to those using the highway.
- 3.4 (iii) - It is claimed that the trees are causing upheave of the front porch. No evidence has been supplied or observed to support this claim. Any development should be built appropriately for the surroundings. While certain porches do not require Building Regulation approval, sub-standard building practice is not an admissible reason for tree removal. It is imperative that structures are built in accordance with Building Regulations regardless of any exemptions.
- 3.5 (iv) - It is claimed that fallen pine needles caused a car engine bay fire. To Officers' knowledge, there has never been an instance of engine bay fires caused by the accumulation of pine needles. It would be expedient for a responsible car owner to remove accumulated pine needles from their car. If this is of such concern, it is recommended that the property garages are utilised. Ample covered parking was afforded to each property and conditioned for retention within the original planning permission.
- 3.6 (v) - Fallen leaves, fruit, cones and flowers do not constitute a nuisance in the legal sense. The courts expect a reasonable person to accept the fall of leaves etc. as a seasonal occurrence over which the tree owner has no control.
- 3.7 (vi) - It is claimed that parents have complained about the fallen berries from the Yew tree T1. Parents are responsible for the actions of their child until aged 18. The branches have at least 2m clearance to the ground. It is the responsibility of the parent to ensure their child does not pick berries off the tree or ground and eat them. Poisonous plants are commonplace. Existing statute pertains to the browsing of animals on poisonous plants and is based on whether there is a requirement to maintain a stock-proof hedge.
- 3.8 (vii) - Regarding the pavement, while it may technically be the responsibility of the tree

owner, this has been passed to Street Scene and Operational Services to action.

- 3.9 (viii) - Complaint is also made of the need for costly applications. It should be noted that applications for tree works are free of charge regardless of whether protected by a TPO or by virtue of being in a Conservation Area.
- 3.10 Managing the risk from trees is the responsibility of the owners and managers of the land on which they grow. The law outlines a landowner's responsibility and their 'duty of care'. This is to take reasonable care to avoid acts or omissions which he or she could reasonably foresee may result in harm or injury. When a tree owner fails to exercise his or her responsibility, the result may be a claim for negligence.
- 3.11 The owner of the Yew tree (T1) has:

'already taken measures to start removing the tree by way of chemical treatment [...] applied to the base of the tree to aid the removal of the tree'.

This has never been considered good practice for any tree removal. To willingly and knowingly poison a standing tree is to create a hazard; this is both negligent and dangerous. Yew trees are, however, particularly resilient and vigorous and the tree is expected to survive but will continue to be monitored. The owner has been made aware that any further works amounting to prohibited activities is a prosecutable offence.

4. Conclusions and Recommendations

- 4.1 The trees protected by the Order are important to the site and offer very good amenity value. They were retained as part of the original development where the Public House was demolished and 45 dwellings constructed. The trees were recommended for protection by the County Council's Arboricultural Officer in 2003 as part of the planning application.
- 4.2 The majority of the issues raised in objection can be categorised as causing harm by virtue of their natural characteristics. Fallen leaves, fruit, cones and flowers do not constitute a nuisance in the legal sense. The courts expect a reasonable person to accept the fall of leaves etc. as a seasonal occurrence over which the tree owner has no control.
- 4.3 A TEMPO assessment (Tree Evaluation Method for Preservation Orders) was carried out. This is a systematised assessment tool for TPO suitability that is used to help guide decision making. It takes amenity and expediency into account, providing appropriate benchmark ratings for inclusion in a TPO whereby a score of 12-15 is defensible and 16+ definitely merits a TPO. As such, trees T1 and T2 scored 20, T3 scored 19 and T4 scored 13.
- 4.4 It is therefore recommended that the Order be confirmed without modification.

Appendix 1

Town and Country Planning Act 1990

The Borough Council of Oadby & Wigston (The Firs, Wigston) Tree Preservation Order 2018

The Borough Council of Oadby & Wigston, in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 hereby make the following Order:-

Citation

1. This Order may be cited as The Borough Council of Oadby & Wigston (The Borough Council of Oadby & Wigston (The Firs, Wigston) Tree Preservation Order 2018), Tree Preservation Order

Interpretation

2. (1) In this Order "the authority" means the Borough Council of Oadby and Wigston unless the context otherwise requires.
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect


3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to article 14, no person shall-
 - (a) cut down; top; lop; uproot; wilfully damage; or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of, any tree in the Schedule of this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 20 day of August 2018.

The Common Seal of the Borough Council of Oadby and Wigston
was hereunto affixed in the presence of:-


Deputy (Mayor)


(Head of Law & Governance)



13/18/19

CONFIRMATION OF ORDER

This Order was confirmed by the Oadby and Wigston Borough Council at its meeting of the Development Control Committee without modification on the day of 20 .

Minute Reference:

CONFIRMATION OF ORDER SUBJECT TO MODIFICATION

This Order was confirmed by the Oadby and Wigston Borough Council at its meeting of the Development Control Committee, on the day of 201 , subject to the following modifications:

Minute Reference:

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by Oadby and Wigston Borough Council at its meeting of the Development Control Committee on the day of 201 .

Minute Reference:

DECISION TO VARY ORDER

A decision to vary this Order was taken by Oadby and Wigston Borough Council at its meeting of the Development Control Committee on the day of 201 .

Minute Reference:

DECISION TO REVOKE ORDER

A decision to revoke this Order was taken by Oadby and Wigston Borough Council at its meeting of the Development Control Committee on the day of 201 .

Minute Reference:

SCHEDULE

SPECIFICATION OF TREES

Trees specified Individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Yew	In front of No.1 The Firs
T2	Corsican Pine	In front of No.2 The Firs
T3	Corsican Pine	In front of No.3 The Firs
T4	Flowering Cherry	In front of No.4 The Firs

Trees specified by reference to an Area (within a dotted black line on the map)

Reference on map	Description	Situation
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Groups of Trees (within a broken black line on the map)

Reference on map	Description	Situation
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Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
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**The Borough Council of Oadby & Wigston (The Firs,
Wigston) Tree Preservation Order 2018**

Scale	1:500
Date	20/08/2018

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