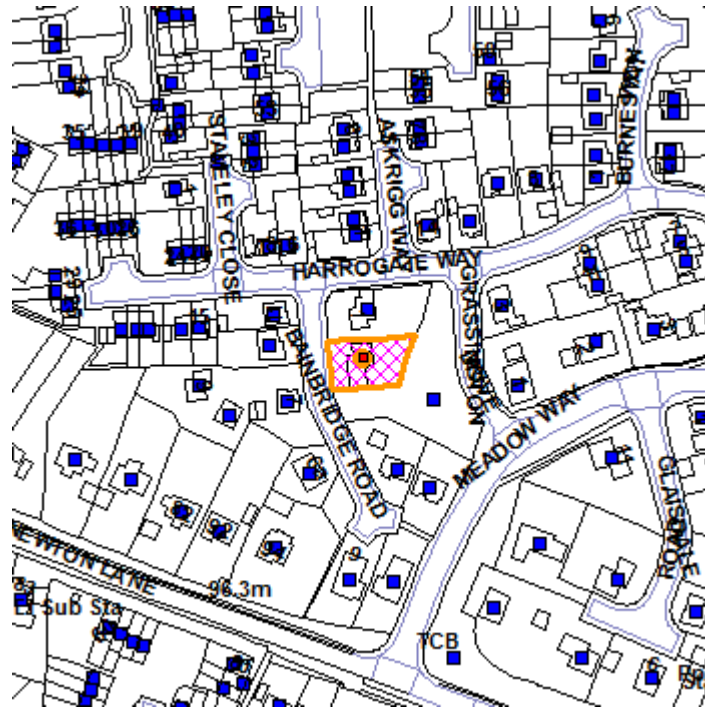


Application Number	Address
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Report Items

- | | | |
|----|--------------|--|
| 1. | 15/00275/FUL | 2 Bainbridge Road
Wigston
Leicestershire
LE18 3YH |
| 2. | 15/00381/FUL | Cuisine Of India
Kelmarsh Avenue
Wigston
Leicestershire
LE18 3QW |

1.	15/00275/FUL	2 Bainbridge Road Wigston Leicestershire LE18 3YH
	24 June 2015	Erection of two storey side and rear extensions, and single storey front and side extensions (Rev A)
	CASE OFFICER	Emma Bailey



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Site and Location

2 Bainbridge Road is a detached dwelling located within a residential area of properties of a similar age and design. The property is set back from the roadside towards the entrance of a quiet cul-de-sac, with a small enclosed front garden and open driveway to provide off-road parking for 2 vehicles and an integral single garage. The property is constructed of brickwork walls, a concrete tiled roof and uPVC windows and doors. Closed board fencing and hedging surrounds the perimeter to the rear.

The dwelling is not a listed building, nor is it located in or adjacent to a conservation area.

Description of proposal

This application proposes the erection of a single storey front extension, the construction of a first floor above an existing single storey side extension, the erection of a single storey side extension and the erection of a two storey side and rear extension.

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The single storey front extension is to infill a gap to the north-west of the dwelling and will continue an existing single storey canopy that spans the width of the house at present. The proposal is to measure 3.7 metres wide and 1.5 metres deep so that it sits flush, with the height of the proposal also matching the existing height of the roof at 2.3 and 3.3 metres to the eaves and ridge respectively. One window is to be inserted on the principal elevation fronting Bainbridge Road, with no further windows or doors proposed.

The construction of the first floor is to be sited to the southern, side elevation of the property. It is to be set back from the principal elevation of the property by 1.0 metres, measure 4 metres wide and 8.1 metres deep to sit flush with the proposed two storey side and rear extensions. The eaves are to measure 5.0 metres in height to match existing, with the proposed ridge falling short of the existing roof ridge by 0.3 metres at 6.3 metres. One window is to be inserted on the principal elevation fronting Bainbridge Road, with one further window to the rear facing into the applicant's garden. No further windows or doors are proposed.

At ground floor level, the remainder of the existing single storey element of the dwelling to the south is to be extended backward by 5.2 metres to sit flush with the proposed two storey rear extension. One window is to be sited to the rear of this extension facing into the applicant's rear garden, with no further windows or doors proposed. The roof is to be a lean-to, measuring 2.4 metres and 3.6 metres to the eaves and the roof ridge respectively.

An existing conservatory is to be demolished on the rear elevation of the property to allow for the erection of a two storey rear extension that is to span the width of the existing property at 11.8 metres. At ground floor level, in addition to the window inserted into the single storey element of the proposal, one additional window and concertina doors are proposed. Above, two large windows and two smaller windows are to provide light and ventilation into two rear bedrooms and a shared bathroom. The roof is to comprise of two hips with a valley drain in the centre, with the eaves to match existing at 5 metres and the proposed ridge to fall short of the existing roof ridge by 0.3 metres at 6.3 metres, matching the heights of the proposed side extension.

Relevant Planning History

None relevant

Consultations

Leicestershire County Council (Highways) : No objections but consider parking provision.

Representations

Neighbours have been informed and a site notice placed with 12 letters of objection from 6 separate addresses being received at the time of writing this report. The date for the receipt of comments expired on the 21 September 2015.

The objections raise the following comments:

- Proposal uncharacteristic with other properties in the cul-de-sac
- Too large an extension – dominant/reduce size of garden
- Potential parking/traffic problems
- Noise, disruption and debris that would arise from the building works

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- Potential to become a care home
- Potential drainage issues
- Fire escapes
- Loss of light

Relevant Planning Policies

National Planning Policy Framework

National Planning Practice Guidance

Oadby & Wigston Core Strategy

Core Strategy Policy 4	:	Sustainable Transport and Accessibility
Core Strategy Policy 14	:	Design and Construction

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
Landscape Character Assessment

Planning Considerations

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

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

The impact of the proposal on the street scene

2 Bainbridge road falls within the Wigston Meadows Urban Character Area of the Landscape Character Assessment. This area is described as follows:

- Non traditional street pattern and break down in street pattern;
- Small block size or houses in small groups;
- Loss of solid building line addressing street frontage;
- Housing from late 1960s, 1970s and 1980s form the edge of the urban area adjacent to the urban fringe;
- Mixture of housing types – detached/semi-detached/bungalow/terrace;
- 1970s housing design features – larger roofs, dormers, large windows, white boarding;
- Some greenery as garden trees and vegetation;
- Levels impact on area viii with loss of enclosure towards the east on to the higher ground with some views back over Wigston;
- In the Little Hill area the flatness of the landform is evident;
- Subtle green backdrop formed by railway for Little Hill and the Green Wedge for Wigston Meadows;
- Both have small focus area of shops/pub/bus stops.

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Paragraph 5.3.82 reads 'The estates though pleasant have no local distinctiveness or character. There seems to be little tree cover to mature to improve the character or improve the sense of enclosure. With low pedestrian and vehicular activity both areas can feel a little desolate in areas'.

It has been found that the current building size to plot ratio of the property, 2 Bainbridge Road, is 23 per cent, this will increase to 37 per cent as a result of the development. When applying this to policy, paragraph 5.3.78 read 'In some areas of both estates there is a break down in the regularity of plot sizes, housing frontages without boundaries and the disappearance of the building line in the street'.

Given the lack of character and irregularity of plot sizes in the immediate area, the overall size in principal is not considered to be out of keeping with the area and thereby in accordance with the Landscape Character Assessment. This assessment also indicates that the development would not result in an unacceptable reduction in open space around the dwelling in accordance with Housing Proposal 17. For these reasons, it is considered that the proposed extension would have limited additional impact on the street scene.

The impact of the proposal on neighbouring residential properties.

The application has been assessed against the 45 degree code of practice when compared to neighbouring properties. The proposal does not interject with a 45 degree line as taken from number 1 Bainbridge Road to the north of the site, with green open space to the south and east and Bainbridge Road to the west. This concludes that the development would not lead to an unacceptable loss of light to any neighbouring property.

Although the works are considered to maximise the potential of the plot, this proposal is deemed to be compliant with Housing Proposal 17 of the Oadby and Wigston Local Plan as it is of harmonious design and form. The development does not have an unduly detrimental effect on the amenities of neighbouring residents and does not result in an unacceptable reduction in open space around the dwelling.

Objections have been raised regarding the size of the application and that it is too large in size and design. Concerns relate to the extensions resulting in the dwelling being too dominant and therefore out of character compared to the other houses on this cul-de-sac. It is acknowledged that the proposal would create a dwelling which would be larger than some of the adjacent properties. The local area consists of a variety of housing types and sizes and this is recognised within the Landscape Character Assessment, with no clear character type in the Wigston Meadows area.

The following comments raised are non-material planning considerations and cannot be considered as part of this application

- Potential drainage issues – this is a matter for building regulations
- Noise, disruption and debris that could arise from the building works
- Fire precautions – this is a matter for building regulations
- The potential of the proposal to become a care home - no information has been provided with the application to suggest this use, with the development proposing one additional bedroom only to increase its size from three bedrooms to four.

Highway issues

It is noted that the Highway Authority raise no objections to the proposal but suggest that parking provision is considered. The proposal does not affect the existing parking provision on site which is considered to be adequate for the extended dwelling. The proposal is considered to accord with the provisions of CS4 of the Oadby and Wigston Core Strategy.

Conclusion

It is considered that on balance the proposal does not have an unacceptably adverse effect on the visual amenity on the area. Given that the rear of the dwelling overlooks an open green space, with the proposal to use matching materials where appropriate, the development is not considered to create an unacceptable loss of amenity to any neighbouring property and therefore is in accordance with Housing Proposal 17 and Landscape Proposal 1 of the Oadby and Wigston Borough Council Local Plan.

The concerns raised by objectors are not considered to warrant a refusal in this case. The planning matters raised have been dealt with accordingly by means of amended plans, with the development being considered to be in compliance with planning policy.

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.
- 2 All external materials used in the development shall match those of the existing building in colour, size, coursing and texture unless otherwise first agreed in writing with the Local Planning Authority.
Reason: To safeguard the character and appearance of the building and its surroundings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 3 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

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development hereby permitted shall be carried out in accordance with the approved plans and particulars listed in the schedule below.

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

Notes to Applicant :

- 1 For the avoidance of doubt this permission relates to the following plans and particulars:-
 - Drg No: MDL-PL-01A Existing/Proposed Plans inc Location Plan (scale: 1:1250) drawn by Master Plan Design Ltd, dated 16.10.2015 and received by the Local Planning Authority 16 October 2015
- 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 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).
- 6 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.

7 Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

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

Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Telephone 0303 444 5000) or online at www.planningportal.gov.uk/pcs.

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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.

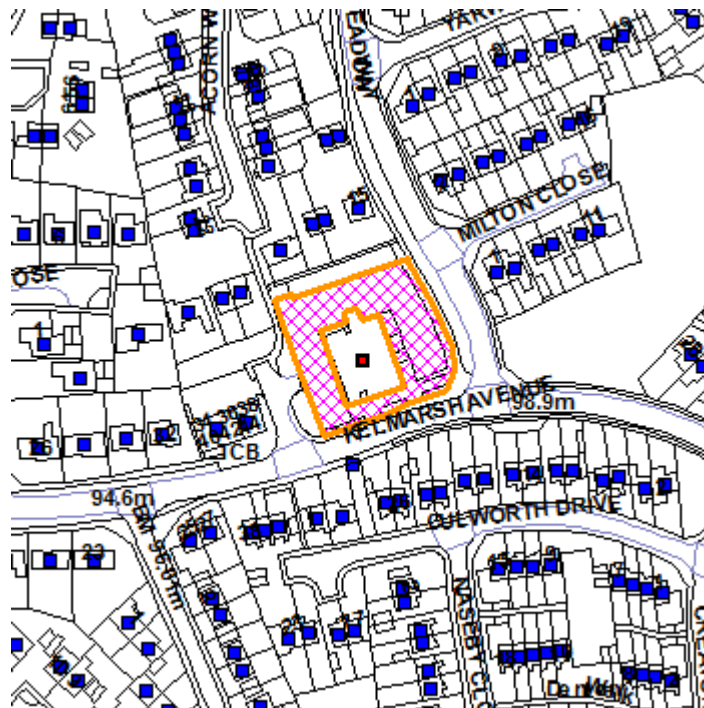
The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements,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

2.	15/00381/FUL	Cuisine Of India Kelmarsh Avenue Wigston Leicestershire LE18 3QW
	4 September 2015	Erection of a single storey convenience store (use class A1), with associated car parking, landscaping and ATM machine
	CASE OFFICER	Emma Bailey



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Site and Location

The site is located at the junction of Meadow Way and Kelmarsh Avenue. The site is currently used for the Cuisine of India restaurant and associated car parking. Residential properties border the site to the north, east and south; with a small parade of shops to the west. The site is identified within the Oadby and Wigston Adopted Core Strategy (2010) as being within a local shopping centre.

Description of proposal

The application proposes the erection of a retail unit (Use Class A1) with associated ATM cash machine, car parking, and landscaping to the east of the Cuisine of India site. This would involve partial demolition to the eastern elevation of the existing building (12.2 square metres), the covered

yard area (27 square metres) and the enclosed open yard area (35.6 square metres) – 74.7 square metres in total.

The retail store would measure approximately 13m wide x 27m deep x 6.5m high (max) with a retail floor area of 233 square metres and a back up area of 126 square metres. The walls would be constructed of brick, and the roof would be tiled. The proposal also includes a bin, plant and cage area to the rear of the store within an acoustic fenced area measuring approximately 12 m wide x 4m deep x 2.7 m high.

The application proposes 10 car parking spaces for the new store, and 17 spaces for the existing restaurant (including 2 disabled and 1 parent child space). Provision for cycle parking is also proposed within the site. The site is accessed from the existing Cuisine of India entrance from Kelmarsh Avenue. The store front faces Kelmarsh Avenue.

A Planning Statement and Transport Statement have been submitted with the application.

The statutory determination period for this application expired on the 30 October 2015, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

None Relevant

Consultations

Leicestershire County Council (Highways) – The Highway Authority has concerns regarding the likely impact the proposal will have in regard to generating on-street parking on Kelmarsh Avenue directly fronting the site, and on Meadow Way in the vicinity of the junction with Kelmarsh Avenue.

The nature of the convenience store and location of the ATM is likely to encourage customers to park inappropriately in these areas, albeit for short periods of time in each instance, causing safety issues for pedestrians and road users.

The Highway Authority would view the application more favourably should amended details be submitted detailing the relocation of the ATM to a position inside the proposed convenience store.

The Highway Authority would also expect the applicant to fund a Traffic Regulation Order to restrict parking on Kelmarsh Avenue along the site frontage and in the proximity to the adjacent Meadow Way/Kelmarsh Avenue junction, through S106 agreement/Unilateral undertaking.

OWBC Forward Plans – The Cuisine of India restaurant, Kelmarsh Avenue, is located within a local shopping centre, as identified in Figure 7 (pg.53) of the Oadby and Wigston Adopted Core Strategy (2010). The proposal seeks to demolish part of the Cuisine of India restaurant and build a neighbouring and separate A1 retail unit. According to Figure 6 (pg.52) in Core Strategy Policy 2: Development in the centres of Oadby, Wigston and South Wigston, local centres are defined as the following:

‘They include a range of small shops of a local nature, serving a small catchment. Typically, local centres might include, amongst other shops, a small supermarket, a newsagent, a sub-post office and a pharmacy. Other facilities could include a hot-food takeaway and laundrette. In rural areas, large villages may perform the role of a local centre’.

Core Strategy Policy 2: Development in the Centres of Oadby and Wigston also states the following regarding local centre opportunities:

'The Borough Council will seek to retain and, where necessary, identify new small scale local shopping opportunities to meet the everyday needs of local people. Provision will be made for local services and community facilities within local centres'.

Kelmarsh Avenue is located within the Wigston Meadow Urban Character Area. According to the Oadby & Wigston Landscape Character Area Assessment (2005), the area is characterised by:

- *Non traditional street pattern and break down in street pattern*
- *Small block size or houses in small groups*
- *Loss of solid building line addressing street frontage*
- *Housing from late 1960s, 1970s and 1980s form the edge of the urban area adjacent to the urban fringe*
- *Mixture of housing types – detached/semi-detached/bungalow/terrace*
- *1970s housing design features – larger roofs, dormers, large windows, white boarding, some greenery as garden trees and vegetation*
- *Levels impact on area with loss of enclosure towards the east on to the higher ground with some views back over Wigston*
- *In the Little Hill area the flatness of the landform is evident*
- *Subtle green backdrop formed by railway for Little Hill and the Green Wedge for Wigston Meadows*
- *Both have small focus area of shops/pub/bus stops*

Therefore, should the case officer be satisfied that the design, scale and form of the proposal is appropriate for that location, the principle for A1 retail in this location would be acceptable on planning policy grounds.

OWBC Environmental Health – No objections to the development in principle although the following comments should be taken into account

1. Contaminated Land : The Council's survey of potentially contaminated sites has not determined this to be a site of concern. Therefore a condition is recommended in relation to dealing with unexpected contamination.
 1. Noise : Recommend an environmental noise assessment to determine how noise that may be generated as a result of the proposal which might affect the amenities of adjacent residents. This is to ensure the development will not give rise to significant adverse impact by reason of noise. The components of noise to be assessed and method should be agreed in advance with the Local Planning Authority (LPA) and a copy of the survey report shall be provided to the LPA before any development takes place.
 2. Demolition, Groundwork and Construction : Advice is given in respect of various matters and codes of practice, including suggested hours of construction.

Representations

Neighbours have been informed and a notice placed with 190 letters of representation and 2 petitions signed by 810 people objecting to the proposal being received at the time of writing this report.

The date for the receipt of comments expired on the 13 October 2015

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The reasons for objection can be summarised as follows: -

- Unacceptable increase in traffic
- Cuisine of India needs the parking spaces, very popular, attracts people far and wide, holds charity events, may have to turn away customers, could eventually close
- Loss of trade for the nearby newsagent – the creation of new jobs by the Co-op will be counteracted by the redundancies made by the newsagents (this can be seen as a result of the Little Hill Co-op)
- Enough supermarkets in close proximity
- Bell street store should be kept open, employs more people than the proposed store, better location
- Would create a cramped site
- No noise report submitted
- No retail impact assessment submitted
- Parking will occur on the road – already a problem, hazardous to pedestrians, in close proximity to Meadows school/the lollipop lady
- Early morning deliveries would have a negative impact on neighbours
- Drivers speed along this road
- The redevelopment of Harcourt will put further pressure on Kelmarsh Avenue
- Busy bus route adds to the congestion
- The Co-op is expensive, nobody will use it, it will close down and bring down the local area
- The land to the rear of the store will attract young teenagers
- Will spoil the existing beer garden/smoking area
- The development would distract drivers
- Parking is a problem at the Great Glen Co-op
- Increased levels of noise/pollution
- The Co-op may eventually take over the restaurant
- Loss of green space/reduce the area's openness
- The restaurant's hours do not impact on the school day, the Co-op's will
- Property developers are being greedy wanting two rents from the same site
- The construction of the store will disturb residents, cause the restaurant to have to temporarily close
- Having a co-op in close proximity increases the risk of obesity
- Need to support local businesses
- It will make the Cuisine of India less appealing to visit
- The development will be an eye-sore
- Could impact on the future sale of nearby houses

Of the objections received, 53 objections did not give a reason, 7 objections did not make explicit reference to the application and 1 referred to a proposed Tesco Express store.

The reasons for supporting the proposal can be summarised as follows: -

- The range of products in the newsagents is poor and service is often bad – competition would be a positive thing

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- Cuisine of India unlikely to return to a pub so why need a beer garden?
- No properties face the site
- By introducing a more local supermarket to residents they are less likely to use their car
- The proposal will improve the feel of the area as people will visit throughout the day
- The creation of jobs

Of the letters of support received, 2 letters did not give a reason.

Relevant Planning Policies

National Planning Policy Framework

National Planning Practice Guidance

Oadby & Wigston Core Strategy

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

Core Strategy Policy 2 : Development in the centres of Oadby, Wigston and South Wigston

Core Strategy Policy 4 : Sustainable Transport and Accessibility

Core Strategy Policy 8 : Climate Change and Renewable Energy

Core Strategy Policy 10 : Infrastructure and the Built Environment

Core Strategy Policy 14 : Design and Construction

Oadby and Wigston Local Plan

Landscape Proposal 1 : Design of new development subject to criteria

Supplementary Planning Document/Other Guidance

Developer Contributions Supplementary Planning Document

Planning Considerations

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

- The principal of commercial development
- The impact of the proposal on the street scene
- The impact of the proposal on neighbouring residential properties.
- Highway Issues

The principal of commercial development

The National Planning Policy Framework recognises the importance of town centres by concentrating town centre uses (such as retail) within town centre boundaries.

The proposed retail development is situated within a designated local shopping centre, as identified in Figure 7 of the Oadby and Wigston Core Strategy (2010).

Core Strategy Policy 2 states that in considering proposals for new retail development, the Borough Council will apply the sequential approach to site selection and that it is essential that any development does not have an adverse effect on existing centres within the Borough. The National Planning Policy Framework suggests that 'where an application fails to satisfy the sequential test or is likely to have significant adverse impact...it should be refused'.

Core Strategy Policy 2 also states that the Borough Council where necessary identify new small scale local shopping opportunities to meet the everyday needs of local people and specifically mentions that small supermarkets (amongst other shops) are an appropriate facility. In this case, the provision of this small supermarket will compliment the local centre and therefore accords with the location/principles of the Core Strategy in relation to new retail development.

The impact of the proposal on the street scene

The appearance of the proposed development and its relationship with its surroundings are a material consideration in determining planning applications and it is important that new development does not have a detrimental impact on the character and appearance or amenity of the area.

The majority of the buildings along this stretch of Kelmarsh Avenue are largely uniform in their design and scale, and are set back from the roadside at equal distance to allow for the provision of off-street parking. An exception to this is the small shopping parade to the west of the site. The proposal would maintain this established building line along Kelmarsh Avenue, with the entrance to the store facing the roadside in order to maintain an active street frontage. Given its location on a street corner, the most significant elevations are the front elevation (facing Kelmarsh Avenue) and the side elevation (facing Meadow Way). In front of the entrance to the store to the south lie the rear gardens of Culworth Drive, enclosed by a tall boundary wall.

The overall height is not considered to be over-dominant or out of keeping with the character of the area. The front elevation (facing Kelmarsh Avenue) consists of brickwork and clear glazed aluminium shop front. The extent of glazing on the front elevation would help to break up the overall mass of the building. The side elevation (facing Meadow Way) has by means of amended plans been altered to be constructed of brickwork only in order to retain the visual amenity of the site and the existing Cuisine of India building. Brick columns separating the four bays on this elevation help to visually reduce the mass of the building. The impact of the side elevation will be reduced by the retention of the existing retaining wall and landscaping.

The bin, plant and cage area would be located to the rear of the store enclosed by a 2.7 metre high acoustic fence.

Given the amendments received, I am of the opinion that the proposal will not have an adverse impact on the character of the area or the street scene in general.

The impact of the proposal on neighbouring residential properties.

The site is located within a designated shopping centre, with the front entrance being approximately 24 metres away from the nearest windows of the residential accommodation at first floor level above the Cuisine of India public house. Therefore, the key consideration is the impact on the residential amenity of nearby properties.

The application form states that the proposed opening hours of the store are 07:00 – 23:00 7 days a week. Additional information submitted by the applicant indicates that deliveries would take place between 06:00 and 21:00, 1-2 times a day, and dwell there for 30-40 minutes.

Given the location of the servicing area, I have some concerns over the early morning deliveries particularly in relation to the potential noise and disturbance which is associated with vehicle movements and noise from trolleys etc. Therefore, it is considered that deliveries should be no earlier than 7am and this can be controlled via a suitably worded planning condition.

In relation to potential noise arising from the plant and equipment associated with the retail unit, it is noted that these are similar to other such premises which generally do not generate excessive noise. In addition to this, there is also a proposed acoustic fence to further mitigate any potential noise arising from this plant. Whilst I acknowledge the request from the Environmental Health officer that an environmental noise assessment should be undertaken, subject to the provision of the acoustic fence, it is considered that this is not necessary in this instance. It is however proposed that the acoustic fence is the subject of a suitably worded planning condition to ensure it is provided and maintained as such.

Highways issues

The applicant's agent was made aware of the concerns raised by the Highways Authority and has since submitted revised plans to show the proposed ATM inside of the building. In consideration of these issues, the provision of 10 spaces for the retail use is slightly in excess of what the parking standard suggests for the retail area.

The Transport Statement submitted with the application demonstrates that service vehicles will be able to enter and exit the site in a forward gear without needing to use any of the areas shown for parking spaces.

The Highway Authority considered that customers of the proposed store may park directly outside the store on Kelmarsh Avenue and nearby Meadow Way in the vicinity of the junction. This could create a hazard for both pedestrians and road users and as such the Highway Authority advised that a Section 106 Agreement/Unilateral Undertaking be entered into between the developer and the Highway Authority, where a contribution of £3,000 will be made. This has since been agreed to by the applicant.

Further advice from the Highway Authority has been sought in relation to the residual parking provision for the existing restaurant. This information will be reported to committee via the Agenda Update.

Conclusion

It is considered that the principle of retail development in this location and the impact on the character and appearance of the street scene and on nearby residential properties is considered to be acceptable (subject to appropriate conditions). Subject to clarification in relation to the residual parking for the restaurant, the impact on the highway is considered to be acceptable providing that an appropriately worded Unilateral Undertaking which secures a contribution for the Highway Authority is given.

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

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Recommendation

a) **Subject to the receipt of suitable Section 106 Agreement by the 16 December 2015 (or any such alternative date extending the time period for the determination of the application as first agreed in writing by both the Applicant and the Local Planning Authority) and 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.
- 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 development a detailed scheme of landscaping 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.
- 4 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 building 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 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 Prior to the commencement of development a scheme for the disposal of foul sewerage 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. Drainage shall be provided within the site such that surface water does not drain into the Public Highway. The approved scheme shall be implemented in full prior to the first occupation of the first dwelling and, unless otherwise first agreed in writing by the Local Planning Authority, shall be maintained as such for the life of the development.
Reason: To ensure adequate drainage facilities are provided to serve the development and to prevent pollution of the water environment and to prevent run off to the highway as recommended by Leicestershire County Council (Highways) and in accordance with the aims and objectives of the National Planning Policy Framework.

6 The use hereby permitted shall not be open to customers outside the following times:

Monday to Saturday	07:00 and 23:00
Sundays and Bank Holidays	09:00 and 23:00

Reason: In the interests of the amenities of local residents and the locality in general in compliance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.

7 No deliveries shall be taken at or despatched from the site except between the hours of 7.00am and 6.00pm Monday to Saturday and 10.00am to 6.00pm on Sundays or Bank Holidays.

Reason: In the interests of the amenities of local residents and the locality in general and to ensure that sufficient parking spaces are available during loading/unloading of such vehicles and in compliance with Core Strategy Policy 4 and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

8 Prior to the first occupation of the building hereby granted permission the proposed acoustic fence as shown on the approved plans shall be erected and unless otherwise first agreed in writing by the Local Planning Authority shall be maintained throughout the life of the development.

Reason: In the interests of the amenities of local residents and the locality in general in compliance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.

9 Prior to the first occupation of the building hereby granted permission the access and parking areas shown on the approved plan shall be marked and provided in a bound material and thereafter made available at all times for their designated purposes.

Reason: As recommended by Leicestershire County Council (Highways) in the interests of highway safety and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policy 4.

10 Notwithstanding the submitted details, prior to the commencement of development details of secure cycle parking provision shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided prior to the first occupation of the building and unless otherwise first agreed in writing by the Local Planning Authority maintained as such for the life of the development.

Reason: To encourage sustainable alternatives to the motor car and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policy 4.

11 If during the course of development, contamination not previously anticipated or previously identified is found to be present on the site, then no further development (unless otherwise first agreed in writing with the Local Planning Authority) shall be carried out until a method statement detailing how and when the contamination is to be dealt with has been submitted to and approved in writing by the Local Planning Authority. The contamination shall then be dealt with in accordance with the approved details.

Reason: In order to safeguard human health and the environment and identify potential contamination on-site and the potential for off-site migration as recommended by the Environmental Health Manager and in accordance with the aims and objectives of the National Planning Policy Framework.

12 Unless otherwise first approved in writing (by means of a Non-material Amendment/Minor Material Amendment or a new Planning Permission) by the Local Planning Authority the

development hereby permitted shall be carried out in accordance with the approved plans and particulars listed in the schedule below.

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

Notes to Applicant :

- 1 For the avoidance of doubt this permission relates to the following plans and particulars:-
 - Drawing No.: T47-0302 Proposed Site Plan, drawn by Corstophine + Wright, dated 15.01.2015 and received by the Local Planning Authority 27 Aug 2015
 - Drawing No.: T47-0301 Rev A Existing Site Plan, drawn by Corstophine + Wright, dated 15.01.2015 and received by the Local Planning Authority 27 Aug 2015
 - Drawing No.: T47-0300 Rev A Site Location Plan (scale 1:1250) drawn by Corstophine + Wright, dated 15.01.2015 and received by the Local Planning Authority 27 Aug 2015
 - Drawing No.: T47-0303 Rev B Proposed GA Floor Plan, drawn by Corstophine + Wright, dated 15.01.2015 and received by the Local Planning Authority 3 Nov 2015
 - Drawing No.: T47-0304 Proposed GA Roof Plan, drawn by Corstophine + Wright, dated 15.01.2015 and received by the Local Planning Authority 27 Aug 2015
 - Drawing No.: T47-0306 Rev C Proposed Elevations Retail Store, drawn by Corstophine + Wright, dated 15.01.2015 and received by the Local Planning Authority 4 Nov 2015
 - Drawing No.: T47-0307 Rev A Existing _ Proposed Plans, Elevations -Restaurant, drawn by Corstophine + Wright, dated 15.01.2015 and received by the Local Planning Authority 27 Aug 2015
- 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 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).
- 6 This permission requires you to submit further details to the Local Planning Authority on the proposal prior to the commencement of works on site. There is a fee payable to the Local Planning Authority when a request is made for the discharge of one or more conditions on the same permission or for confirmation of compliance with a condition or conditions. At the time of writing, the fee is payable per written request to discharge conditions not per condition and therefore any number of conditions may be included on a single request. The

fee for such a request associated with this permission (at the time of this decision notice) is £97. The fee must be paid when the request is made. The Local Planning Authority has a statutory period of 8 weeks for the determination of such requests.

- 7 This does not convey consent for any advertisements to the premises for which separate consent must be obtained.
- 8 All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001).
- 9 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 2010 (as amended).
- 10 Oadby and Wigston Borough Council will require all works of Construction and Demolition to comply with the following conditions.
 - The work shall be carried out in such a manner so as to comply with the general recommendation of British Standards BS5228 'Code of Practice for Noise Control on Construction and Demolition Sites' and in particular Section 5 of Part 1 of the Code entitles 'Control of Noise'.
 - All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Council, shall be carried out only between the hours of 0800 and 1800 Monday to Fridays and 0800 and 1300 on Saturdays.
 - No work is to be carried out on the site on Sundays or Bank Holidays.
 - All deliveries to site shall only occur during the above working hours.
 - All equipment is to be operated, sited and maintained so that disturbance to people living or working in the immediate areas is minimised. In particular, all items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well maintained mufflers in accordance with manufacturer's instructions.
 - Any piling operations must be carried out using the quietest practicable method available. Any deviation from this requirement should be subject to an application for 'prior approval' to the Environmental Health Department under the provisions of Section 61 of the Control of Pollution Act 1974. Your attention is drawn to advice given in British Standards BS6472: (1992) Evaluation of Human Exposures to Vibration in Buildings.
 - Contractors shall notify the occupiers of nearby buildings likely to be affected by these works, explaining the type of work and measures taken to minimise noise disturbance.
 - All reasonable means shall be employed in order to control and minimise dust emissions from site.
 - No bonfires shall be lit on the site.
 - The best practicable means, as defined in Section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times.
 - A Statutory Nuisance under section 79 of the Environmental Protection Act 1990 must not be caused at any time

11 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.

12 **Appeals to the Secretary of State**

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

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

Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Telephone 0303 444 5000) or online at www.planningportal.gov.uk/pcs.

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) If the Section 106 Agreement is not completed the 16 December 2015 (or any such alternative date extending the time period for the determination of the application as first agreed in writing by both the Applicant and the Local Planning Authority) then the application be Refused on the grounds of the lack of a section 106 agreement detailing the infrastructure required to mitigate the development.

BACKGROUND PAPERS

15/00275/FUL

15/00381/FUL