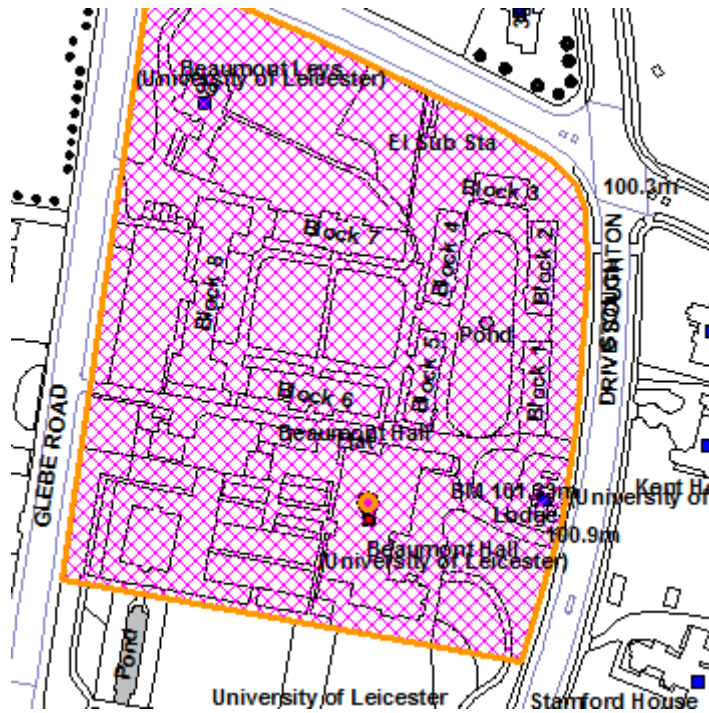


**Application Number****Address****Report Items**

1. 12/00435/CLE  
Beaumont Hall  
Stoughton Drive South  
Oadby  
Leicester  
Leicestershire  
LE2 2NA
  
2. 12/00437/CLE  
Stamford Hall  
Stoughton Drive South  
Oadby  
Leicester  
Leicestershire  
LE2 2NG
  
3. 16/00024/FUL  
39 Long Street  
Wigston  
Leicestershire  
LE18 2AJ
  
4. 16/00163/FUL  
205 Wigston Road  
Oadby  
Leicestershire  
LE2 5JF
  
5. 16/00223/TPO  
Hermitage Court  
Honeywell Close  
Oadby  
Leicestershire  
LE2 5QQ

	<b>Application Number</b>	<b>Address</b>
6.	16/00239/COU	3 Victoria Street Wigston Leicestershire LE18 1AJ
7.	16/00240/COU	5 Victoria Street Wigston Leicestershire LE18 1AJ

1.	12/00435/CLE	Beaumont Hall Stoughton Drive South Oadby Leicester Leicestershire LE2 2NA
	26 November 2012	Certificate of lawful use for halls of residence together with day & residential conferences
	CASE OFFICER	Tracey Carey



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Published 2014

## Site and Location

The site is located within the Oadby Hill Top and Meadowcourt Conservation Area on the junctions of Stoughton Drive South, Knighton Grange Road and Glebe Road and forms part of the wider University of Leicester Oadby Campus.

The site comprises of the Beaumont Hall (main house), accommodation blocks, Rocklands House, car parking and areas of open space.

## Description of proposal

Beaumont Hall was purchased by the University of Leicester in 1947 and is part of the University of Leicester's Oadby Campus. The premises provide 322 bedrooms and a range of other facilities including a dining room, music practice room, T.V. room, common room and launderette.

The applicant asserts that Beaumont Hall has been used as a conference venue since at least 1988. To that end, the applicant has provided the Council with the following kinds of information:-

- (1) Conference booking records, known as the "Ledger Report" for the period 2002 to 2012.
- (2) A "GANTT Chart" which indicates the time and duration of conferences that were held at Beaumont Hall between 2002 and 2012.

In essence, this shows the following pattern of use:

<b>Year</b>	<b>Total no of Conferences</b>	<b>Residential Conferences</b>
2002	111	49
2003	117	37
2004	113	53
2005	116	37
2006	118	47
2007	107	[data Incomplete]
2008	113	33
2009	97	[data Incomplete]
2010	92	[data Incomplete]
2011	113	[data Incomplete]
2012	89	27

Some of the conference events are departmental "away days" and other small meetings rather than conferences. However, in land use terms their character is clearly distinguishable from the halls of residence use.

- (3) Documentary evidence that corroborates the applicant's claim that all of the conferences mentioned in (1) and (2) actually took place.
- (4) Two statutory declarations by Ms Frances Stone, who is the University of Leicester's Director of Residential Commercial Services.
- (5) Supporting statements and appendices, which contain:-
  - (i) A site plan
  - (ii) A document entitled "Industrial Report, The Conference Office, University of Leicester" dated 14 October 1994. This is a "glossy" professionally produced "sales brochure" which advertised the University's halls as conference venues. Beaumont Hall is one of the halls advertised.
  - (iii) An extract from a document entitled: "Halls of Residence Accommodation". It is dated 2003-2004 and appears to have been written for students. It states:-

“Our halls of residence are used by vacation courses and conferences until Saturday 20th September”

Another section entitled “Conferences” advises:-

“During the vacation periods bedrooms and other facilities are used to facilitate our very important conference trade. Income from conferences helps to subsidise student residence fees and we ask that you co-operate with any reasonable requests. This is the reason we ask you to clear your room at vacations. Conferences are also held during term-time. Any such events will be well advertised with plenty of notice given and will only use common areas not bedrooms. There should only be minimal, if any disruption to the normal routine”.

- (iv) A car park map which gives directions to the car parks at the Oadby Campus, including that at Beaumont Hall.
- (v) An example of a “car park notice”. This is a sheet of A4 paper headed “Conference/ event delegate”. The notices are placed on car dashboards.
- (vi) A sample conference booking form, which indicates (amongst other things) the date of a conference, the number of delegates, and the number of rooms and parking spaces required.

The applicant claims a certificate ought to be issued in respect of the whole of Beaumont Hall, which it describes (correctly) as a single planning unit:-

- Beaumont Hall (Main House)
- Bar area
- Dining room
- Wedgwood Room
- Music Room
- TV Room
- Junior Common Room
- Games Room
- Senior Common Room
- Kitchen
- Rooms 1,3,4,5,6,6A
- New Court accommodation blocks
- Old Court accommodation blocks
- Rocklands House
- Onsite Parking areas associated with each of these buildings
- Areas of open space within the grounds of Beaumont Hall

### **Relevant Planning History**

None Relevant

### **Consultations**

OWBC (Legal Representative) – incorporated in the report

Oadby Civic Society – Objects to the use of the University buildings in Oadby being used for conferencing facilities because of the impact on the Conservation Area.

## Representations

Neighbours have been informed and a notice placed with seven letters of representation being received at the time of writing this report (two from the same address). The date for the receipt of comments expired on the 25 April 2014.

The reasons for objection can be summarised as follows: -

- the University says all the areas of the relevant halls have been continuously used for conferences for 10 years and this is no different to student use – There is plainly a difference between use of land as a hall of residence and use of land for conferences;
- the information submitted does not address the point that residential conferences do not occur during term time;
- the primary use of the Halls has always been student residences, which have been in full time use as such during term time;
- in term time only non-residential use is alleged, not any significant (let alone continuous) residential use;
- the University's figures, as well as confirming no in-term residential conference use, show hardly any in-term day conference use during much of the period relied on;
- the booking process for student residential accommodation and conference residential accommodation is not the same, as suggested, and are in reality very different not only in terms of what is being booked but also in relation to arrangements;
- there are also practical differences eg: the number of cars, students reside in the halls, are member of the University and can be controlled by disciplinary action;
- the fact that a specific meeting room is booked, according to the university means the whole site is used for conference purposes, which is clearly untenable and continuous use of the whole site for such purposes has plainly not been shown;
- any in-term use of meeting rooms for conferences, even if continuous (which is not borne out by the records) is entirely separate to the bedrooms used by students during term time. There has been no use of the residential accommodation in term time on the University's own evidence;
- Conference use has been irregular not continuous and has not always been at its present level
- when conferences take place they have on occasions caused major problems in terms of traffic, parking, noise and disruption
- the University has agreed with the Chairman of the Conservation Area Association to limit delegate numbers in the area relating to Gilbert Murray conference centre;
- if any certificate is granted it should not go beyond the nature, type and extent of conference use that has taken place to date, which is bad enough, as well as effect being given to the undertaking agreed in relation to the overall position as part of the concurrent application for Gilbert Murray centre.
- it is clear what has happened is that even where it has occurred, during a large part of the 10 year period at least conference use has simply been a secondary diminutive use (and essentially just out of term);
- were a certificate to be issued it would need to be limited so as not to cover conference use of the residential accommodation in term time or more than the hours or level of any continuous use to date.
- it is quite impossible to construe the John Foster consent as consent for anything other than a Hall of Residence
- less concerned above applications because of the unilateral undertaking the University has agreed with the Conservation Area Association to abide by (in connection with the Gilbert Murray conference centre planning application), restricting the numbers across all of its Oadby sites however certificates should only be issued where appropriate and any certificates be clearly worded so as not to allow for any subsequent intensification of use or change in type of use.
- the position is much less serious than it would otherwise be so long as use is limited as previously , with the primary student use continuing and the Undertaking being given legal effect to as promised.

- conferences in the past have been intermittent but in recent times there have been on occasions massive problems resulting in parking everywhere, disruption and a major blight on the Conservation Area;
- if there is any lawful use of substance, it is unfortunate that the Council has not been more vigilant in preventing this from building up without a planning application.

### **Background**

Members will recall that this Certificate of Lawful Development application was considered at the 23 July 2014 Development Control Committee meeting, where it was resolved to grant a certificate for

“a mixed use for student halls of residence, meeting rooms and conference use, such meeting room and conference use being limited to a non-residential use except during University vacations.

as the application documents indicate that on the balance of probability the site has been used as a mixed use for (i) student halls of residence and term time non-residential conference use; and (ii) student halls of residence and non-residential and residential meeting rooms and conference use during University vacations.

However, in issuing the formal paperwork an administrative error occurred and the decision was judicially reviewed. Owing to the error, the Council consented to the quashing of the decision swiftly and on the 19 February 2015 the Administrative Court quashed the decision. The exact quashing decision states:-

“(1)The certificate of lawful use as issued in each case does not limit the lawful in-term time conference use to non-residential use in accordance with the resolution of the planning committee (nor refer to the use as a hall of residence as a *student* hall of residence).

(2)The certificate of lawful use as issued in each case does not limit the in-term time conference use to non-residential use in accordance with the reason stated in it for the grant, namely that a mixed use had been established for (i) student halls of residence and term time non-residential conference use; and (ii) student halls of residence and non-residential meeting rooms and conference use during university vacations.

(3) It has been agreed the Defendant’s planning committee will reconsider afresh the issue of certificates of lawful use having regard to the matters relied on in the Statement of Facts and Grounds in these proceedings”

In accordance with that decision, the matter now falls back to this committee to re-determine the application.

### **Consideration and Assessment**

As this is an application for a certificate of lawful development the planning merits of what has been occurring is not relevant to the consideration of the application. This is clear from the National Planning Practice Guidance on Lawful Development Certificates.

*“A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.”*

The Lawful Development Certificate system provides the possibility of obtaining a statutory document confirming that the use, operation or activity named in it is lawful for planning control purposes.

To establish a right to a certificate of lawfulness of existing use or development it is necessary to prove that on the balance of probabilities the use claimed has subsisted in breach of planning control for a continuous period of at least 10 years, beginning with the date of the breach. The

applicant bears the burden of proof. However, the applicant's evidence does not need to be corroborated by "independent evidence" to discharge the burden and meet the standard of proof that is required. If the Council has no evidence of their own or from others to contradict or shed doubt on an applicant's evidence, then provided the latter is sufficiently precise and unambiguous a certificate ought to be granted.

The statutory declaration of one Frances Stone provides a first-hand overview of the way in which the applicant has used its Oadby estate for term time non-residential conferences and for residential conferences during University vacations since 1988. However, it says very little that specific about the use of Beaumont Hall and is therefore of limited evidential value. The "Halls of Residence Accommodation document", the car park notice and conference booking sheet are similarly non-specific and of little evidential value, save to demonstrate that the Oadby Campus generally has been used to provide conference accommodation during the term time and vacation period since at least 2003. The car park map is of no probative value whatsoever.

Against that background, the "Industrial Report" indicates Beaumont Hall has been marketed as conference accommodation since at least 1994 (although in 1994 there were only 230 bedrooms available for delegates). The Ledger Report, GANTT Chart and "other documentary evidence" then puts substantial "flesh on the bones" of the application. The GANTT chart in particular illustrates that the hall has been used continuously since at least 2002 to host meetings and conferences during term time and University vacations.

Although some of the spreadsheets that have been supplied do not disclose the precise number of residential conferences in some years, it is absolutely clear that the meeting rooms and conference use was substantial, regular and continuous between 2002 and 2012. The applicant's evidence is that the car park has been used throughout this period for to cater for meeting and conference delegates. During term-time that is possible because students are generally not taught at the Oadby Campus, and so leave in the morning as delegates arrive, and do not return until conferences are finished.

The applicant has confirmed the use of the land that took place between 2002 and 2012 is continuing. Viewed fairly and objectively, there is persuasive evidence that since at least 2002 the whole planning unit has been used for a mixed use as student halls of residence and for a meeting rooms and conference use. The mixed use extends to the use of the car park. Whilst the meeting rooms and conference component of the mixed use includes residential meetings and conferences, they have only taken place during University vacations. Any lawful residential conference and meeting use is therefore limited to University vacations.

The committee will also note that the inclusion of the "meeting rooms" use is not a use that the applicant sought to establish is lawful. Officers recommend that this use is specified in the description because it is a distinctive component of the mixed use. If the large number of small meetings that take place were to be supplemented by larger conferences that could, in principal result in a material change of use. That would be a question of fact and degree, which would turn on evidence of a distinct change in the character of the use of the land. Any such material change of use would require planning permission.

### **The Planning and Environmental Implications**

The Committee will note that the environmental implications of the claimed lawful use cannot be a material consideration in the making of this essentially "judicial" decision. (Unlike the issues in an ordinary application for planning permission).

A material effect of the claimed use is that some motorists, and on some but not all occasions choose to park on local roads or road verges – rather than following any advice issued by the University or conference organisers to park in designated off-street parking spaces. In the absence of on-street parking controls such off-site car parking harms the character and appearance of the Conservation Area, and may damage adjacent grass verges. Only those motorists who park on grass verges rather than the carriageway are behaving in an arguably unlawful manner. An objector



has supplied photographs of such behaviours. Officers have contacted LCC Highways, pointing out that prosecutions might well amount to a significant revenue stream!

### **Conclusion**

The meeting rooms and conference component has not been granted planning permission and has therefore been carried on in breach of planning control. That use has subsisted for more than 10 years without significant interruption. No enforcement action may be taken against the breach, which is now immune from planning control. Consequently, the applicant is entitled to a certificate under s.191 of the Act.

Therefore, the Committee is recommended to grant a certificate of lawfulness under section 191 of the Town and Country Planning Act 1990 in respect of the land and buildings at Beaumont Hall edged in red on the application plan for the following use:-

“A mixed use for student halls of residence, meeting rooms and conference use, such meeting room and conference use being limited to a non-residential use except during University vacations”.

### **Implications Statement**

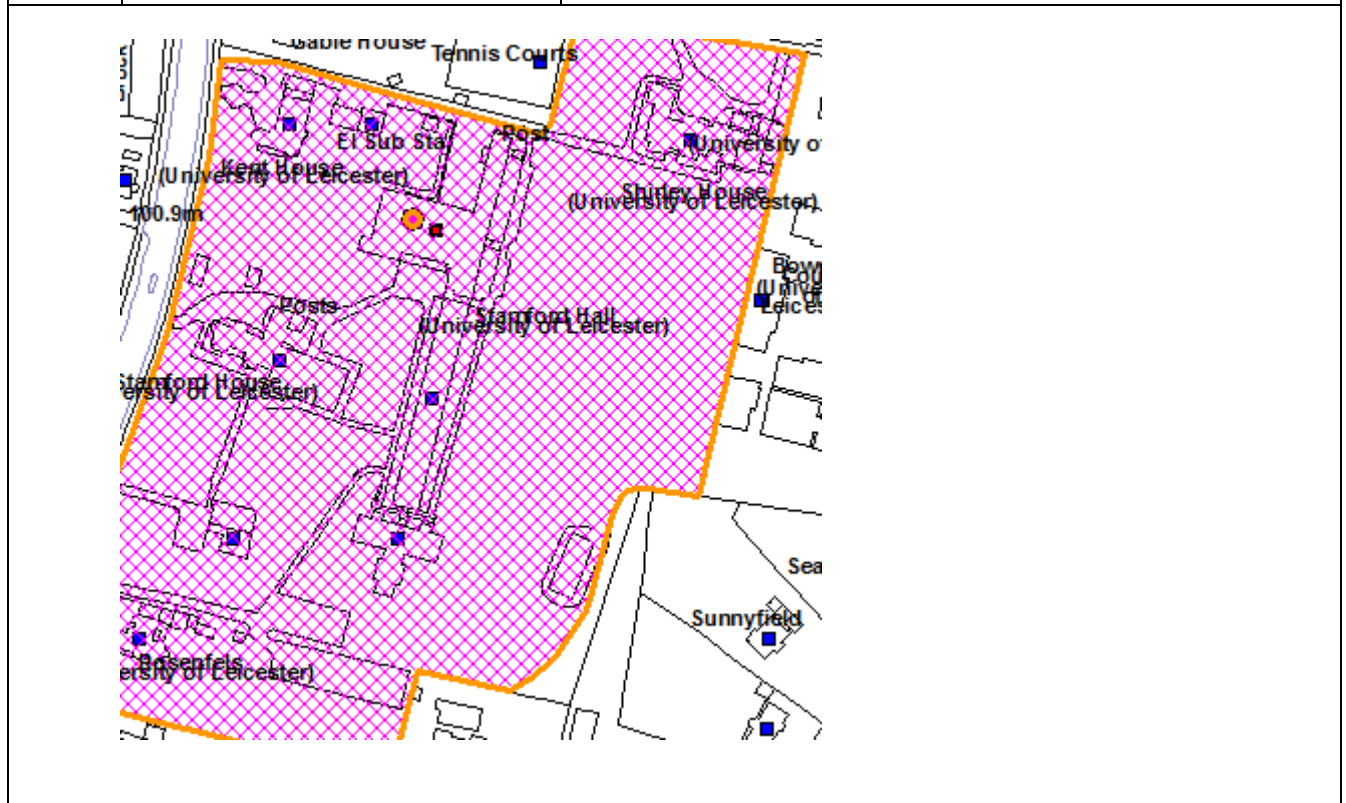
Health	No Significant implications
Environment	No Significant implications
Community Safety	No Significant implications
Human Rights	The rights of the applicant to develop his property has to be balanced against the rights of neighbours.
Equal Opportunities	No Significant implications
Risk Assessment	No Significant implications
Value for Money	No Significant implications
Equalities	No Significant implications
Legal	No Significant implications

### **RECOMMENDATION: GRANTS**

#### Reason for the grant of planning permission

- 1 The application documents indicate that on the balance of probability the site has been used as a mixed use for (i) student halls of residence and term time non-residential conference use; and (ii) student halls of residence and non-residential and residential meeting rooms and conference use during University vacations.

2.	12/00437/CLE	Stamford Hall Stoughton Drive South Oadby Leicester Leicestershire LE2 2NG
	26 November 2012	Certificate of lawful use for halls of residence together with day & residential conferences
	CASE OFFICER	Tracey Carey



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## Site and Location

The site is largely located off Stoughton Drive South, however Shirley House, which forms part of the application site is accessed from Manor Road. The site is within the Oadby Hill Top and Meadowcourt Conservation Area and forms part of the wider University of Leicester Oadby Campus.

The site comprises of Stamford Hall (main house), accommodation blocks, a dining block, Kent House, Rosenfels, Shirley House, car parking and areas of open space.

## Description of proposal

The original house at Stamford Hall was built in 1907. It opened as a halls of residence in 1965 and is part of the University of Leicester's Oadby Campus. The premises provide 243 bedrooms and a range of other facilities including a dining room, games room, lounge, seminar rooms, TV rooms and a junior common room.

The applicant asserts that Stamford Hall has been used as a conference venue since at least 1988. To that end, the applicant has provided the Council with the following kinds of information:-

- (1) Conference booking records, known as the "Ledger Report" for the period 2002 to 2012.
- (2) A "GANTT Chart" which indicates the time and duration of conferences that were held at Stamford Hall between 2002 and 2012.

In essence, this shows the following pattern of use

<b>Year</b>	<b>Total no of conferences</b>	<b>Residential conferences</b>
2002	65	10
2003	64	16
2004	61	13
2005	92	31
2006	79	19
2007	128	54
2008	146	88
2009	228	173
2010	190	135
2011	274	238
2012	326	277

Some of the conference events are departmental "away days" and other internal conferences held by departments of the University. Others appear to be relatively small meetings. However, in land use terms their character is clearly distinguishable from the halls of residence use, and is best described as a meeting and conference use.

- (3) Documentary evidence that corroborates the applicant's claim that all of the conferences mentioned in (1) and (2) actually took place.
- (4) Two statutory declarations by Ms Frances Stone, who is the University of Leicester's Director of Residential Commercial Services.
- (5) Supporting statements and appendices, which contain:-
  - (i) A site plan
  - (ii) A document entitled "Industrial Report, The Conference Office, University of Leicester" dated 14 October 1994. This is a "glossy" professionally produced "sales brochure" which

advertised the University's halls as conference venues. Stamford Hall is one of the halls advertised.

- (iii) An extract from a document entitled: "Halls of Residence Accommodation". It is dated 2003-2004 and appears to have been written for students. It states:-

"Our halls of residence are used by vacation courses and conferences until Saturday 20th September"

Another section entitled "Conferences" advises:-

"During the vacation periods bedrooms and other facilities are used to facilitate our very important conference trade. Income from conferences helps to subsidise student residence fees and we ask that you co-operate with any reasonable requests. This is the reason we ask you to clear your room at vacations. Conferences are also held during term-time. Any such events will be well advertised with plenty of notice given and will only use common areas not bedrooms. There should only be minimal, if any disruption to the normal routine".

- (iv) A car park map which gives directions to the car parks at the Oadby Campus, including that at Stamford Hall.
- (v) An example of a "car park notice". This is a sheet of A4 paper headed "Conference/ event delegate". The notices are placed on car dashboards.
- (vi) A sample conference booking form, which indicates (amongst other things) the date of a conference, the number of delegates, and the number of rooms and parking spaces required.

The applicant claims a certificate ought to be issued in respect of the whole of Beaumont Hall, which it describes (correctly) as a single planning unit:-

- Stamford Hall (Main House)
- Thornton Room
- Hollaton Room
- Ante Room
- Junior Common Room
- Lounge
- Games Room
- TV Room
- Ladun accommodation blocks
- Stamford Hall Dining Room
- Kent House
- Rosenfels
- Shirley House
- Onsite Parking areas associated with each of these buildings
- Areas of open space within the grounds of Beaumont Hall

The statutory determination period for this application expired on the 21 January 2013 and it is intended to issue a decision as soon as practicably possible after the committee meeting.

### **Relevant Planning History**

92/0229/8M – Single storey rear extension - approved

93/0499/8P – Extension to rear car park – approved

95/0581/8P – Formation of new car park and increase in size of existing car park - approved

## **Consultations**

OWBC (Legal Representative) – incorporated in the report

Oadby Civic Society – Objects to the use of the University buildings in Oadby being used for conferencing facilities because of the impact on the Conservation Area.

## **Representations**

Neighbours have been informed and a notice placed with seven letters of representation being received at the time of writing this report (two from the same address). The date for the receipt of comments expired on the 25 April 2014.

The reasons for objection can be summarised as follows:-

- the University says all the areas of the relevant halls have been continuously used for conferences for 10 years and this is no different to student use – There is plainly a difference between use of land as a hall of residence and use of land for conferences;
- the information submitted does not address the point that residential conferences do not occur during term time;
- the primary use of the Halls has always been student residences, which have been in full time use as such during term time;
- in term time only non-residential use is alleged, not any significant (let alone continuous) residential use;
- the University's figures, as well as confirming no in-term residential conference use, show hardly any in-term day conference use during much of the period relied on;
- during the whole of 2006, the ledger report shows only 6 in-term conferences of just 1 day each at Stamford Hall – it is hard to see how this can be regarded as continuous conference use;
- the booking process for student residential accommodation and conference residential accommodation is not the same, as suggested, and are in reality very different not only in terms of what is being booked but also in relation to arrangements;
- there are also practical differences eg: the number of cars, students reside in the halls, are member of the University and can be controlled by disciplinary action;
- the fact that a specific meeting room is booked, according to the university means the whole site is used for conference purposes, which is clearly untenable and continuous use of the whole site for such purposes has plainly not been shown;
- any in-term use of meeting rooms for conferences, even if continuous (which is not borne out by the records) is entirely separate to the bedrooms used by students during term time. There has been no use of the residential accommodation in term time on the University's own evidence;
- Conference use has been irregular not continuous and has not always been at its present level
- when conferences take place they have on occasions caused major problems in terms of traffic, parking, noise and disruption
- the University has agreed with the Chairman of the Conservation Area Association to limit delegate numbers in the area relating to Gilbert Murray conference centre;
- if any certificate is granted it should not go beyond the nature, type and extent of conference use that has taken place to date, which is bad enough, as well as effect being given to the undertaking agreed in relation to the overall position as part of the concurrent application for Gilbert Murray centre.
- it is clear what has happened is that even where it has occurred, during a large part of the 10 year period at least conference use has simply been a secondary diminutive use (and essentially just out of term);
- were a certificate to be issued it would need to be limited so as not to cover conference use of the residential accommodation in term time or more than the hours or level of any continuous use to date.
- it is quite impossible to construe the John Foster consent as consent for anything other than a Hall of Residence
- less concerned above applications because of the unilateral undertaking the University has agreed with the Conservation Area Association to abide by (in connection with the Gilbert Murray

- conference centre planning application), restricting the numbers across all of its Oadby sites however certificates should only be issued where appropriate and any certificates be clearly worded so as not to allow for any subsequent intensification of use or change in type of use.
- the position is much less serious than it would otherwise be so long as use is limited as previously, with the primary student use continuing and the Undertaking being given legal effect to as promised.
  - conferences in the past have been intermittent but in recent times there have been on occasions massive problems resulting in parking everywhere, disruption and a major blight on the Conservation Area;
  - if there is any lawful use of substance, it is unfortunate that the Council has not been more vigilant in preventing this from building up without a planning application.

### **Planning Considerations**

Members will recall that this application was deferred from the 26 June committee meeting.

Following the committee meeting OWBC received a letter from the University in relation to this application (and the other certificate of lawfulness applications).

In essence, the Applicant draws attention to the National Planning Practice Guidance on Lawful Development Certificates which states (at paragraph 17c-009-20140306) :-

*“A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.”*

The Lawful Development Certificate system provides the possibility of obtaining a statutory document confirming that the use, operation or activity named in it is lawful for planning control purposes.

To establish a right to a certificate of lawfulness of existing use or development it is necessary to demonstrate on the balance of probabilities the use claimed has subsisted in breach of planning control for a continuous period of at least 10 years, beginning with the date of the breach. The applicant bears the burden of proof. However, the applicant's evidence does not need to be corroborated by “independent evidence” to discharge the burden and meet the standard of proof that is required. If the Council has no evidence of their own or from others to contradict or shed doubt on an applicant's evidence, then provided the latter is sufficiently precise and unambiguous a certificate ought to be granted.

### **Assessment**

The statutory declaration of Frances Stone provides a first-hand overview of the way in which the applicant has used its Oadby estate for term time non-residential conferences and for residential conferences during University vacations since 1988.

However, it says very little that is specific about the use of Stamford Hall and is therefore of limited evidential value. The “Halls of Residence Accommodation document”, the car park notice and conference booking sheet are similarly non-specific and of little evidential value, save to prove the Oadby Campus generally has been used to provide conference accommodation during the term time and vacation period since at least 2003. The car park map is of no probative value whatsoever.

Against that background, the “Industrial Report” indicates Stamford Hall has been marketed as conference accommodation since at least 1994 (although in 1994 there were only 230 bedrooms available for delegates). The Ledger Report, GANTT Chart and “other documentary evidence” then puts substantial “flesh on the bones” of the application. The GANTT chart in particular illustrates that the hall has been used continuously since at least 2002 to host meetings and conferences during term time and University vacations.

Although some of the spreadsheets that have been supplied do not disclose the precise number of residential conferences in some years, it is absolutely clear that the meeting rooms and conference use was substantial, regular and continuous between 2002 and 2012. The applicant's evidence is that the car park has been used throughout this period for to cater for meeting and conference delegates. During term-time that is possible because students are generally not taught at the Oadby Campus, and so leave in the morning as delegates arrive, and do not return until conferences are finished.

The applicant has confirmed the use of the land that took place between 2002 and 2012 is continuing. Viewed fairly and objectively, there is persuasive evidence that since at least 2002 the whole planning unit has been used for a mixed use as student halls of residence and for a meeting rooms and conference use. The mixed use extends to the use of the car park. Whilst the meeting rooms and conference component of the mixed use includes residential meetings and conferences, they have only taken place during University vacations. Any lawful residential conference and meeting use is therefore limited to University vacations.

### **The Planning and Environmental Implications**

The Committee will note that the environmental implications of the claimed lawful use cannot be a material consideration in the making of this essentially "judicial" decision. (Unlike the issues in an ordinary application for planning permission).

A material effect of the claimed use is that some motorists, and on some but not all occasions choose to park on local roads or road verges – rather than following any advice issued by the University or conference organisers to park in designated off-street parking spaces. In the absence of on-street parking controls such off-site car parking harms the character and appearance of the Conservation Area, and may damage adjacent grass verges. Only those motorists who park on grass verges rather than the carriageway are behaving in an arguably unlawful manner. An objector has supplied photographs of such behaviours. Officers have contacted LCC Highways, pointing out that prosecutions might well amount to a significant revenue stream!

### Intensification

A striking aspect of the conference use element of Stamford Hall is that since 2002 it has intensified significantly. There may be a material change in the use of land as a result of intensification, the test being whether the use has been intensified to such a degree that it can be said to have become a materially different use compared with the original. In that context, officers consider the level of conference use in 2002 was sufficiently high to change the character of the previous halls of residence use to a mixed use. The subsequent intensification of the conference component whilst striking as a set of statistics has not, as a matter of fact, displaced the halls of residence use. Nor has there been a noticeable change in the character of the mixed use of the ground. This is probably explained by the preponderance of smaller non-residential meetings rather than larger residential conferences. Therefore, as a matter of fact and degree the planning unit still has a mixed use as halls of residence and meeting rooms and conference use.

The committee will also note that the inclusion of the "meeting rooms" use is not a use that the applicant sought to establish is lawful. Officers recommend that this use is specified in the description because it is a distinctive component of the mixed use. If the large number of small meetings that take place are supplanted by much larger conferences that might result in a change use. The question of whether such a change of use had occurred would be a question of fact and degree, which would turn on evidence of a distinct change in the character of the use of the land. Planning permission would be required for any such change of use.

### **Conclusion**

The meeting rooms and conference component has not been granted planning permission and has therefore been carried on in breach of planning control. That use has subsisted for more than 10 years. No enforcement action may be taken against the breach, which is now immune from planning control. Consequently, the applicant is entitled to a certificate for those uses under s.191 of the Act.

Therefore, the Committee is recommended to grant a certificate of lawfulness under section 191 of the Town and Country Planning Act 1990 in respect of the land and buildings at Stamford Hall edged in red on the application plan for the following use:-

“A mixed use for student halls of residence, meeting rooms and conference use, such meeting room and conference use being limited to a non-residential use except during University vacations.”

### Implications Statement

Health	No Significant implications
Environment	No Significant implications
Community Safety	No Significant implications
Human Rights	The rights of the applicant to develop his property has to be balanced against the rights of neighbours.
Equal Opportunities	No Significant implications
Risk Assessment	No Significant implications
Value for Money	No Significant implications
Equalities	No Significant implications
Legal	No Significant implications

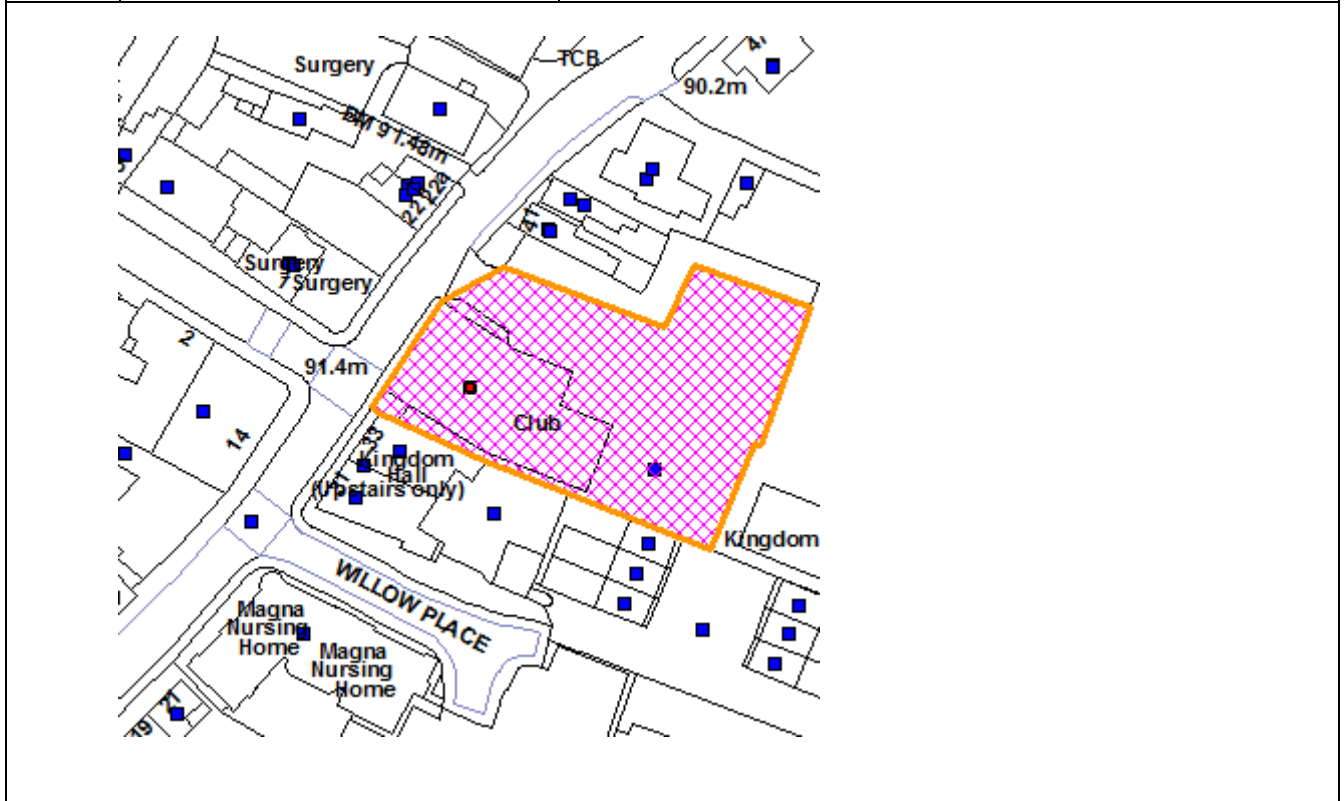
### RECOMMENDATION: GRANTS

#### Reason for the grant of planning permission

- 1 The application documents indicate that on the balance of probability the site has been used as a mixed use for (i) student halls of residence and term time non-residential conference use; and (ii) student halls of residence and non-residential and residential meeting rooms and conference use during University vacations.



3.	16/00024/FUL	39 Long Street Wigston Leicestershire LE18 2AJ
	1 February 2016	Existing building to be demolished and replaced by a block of flats (two bedroom) and 8 terrace houses (3 bedroom). Refuse and bike storage on site with 18 parking bays.
	CASE OFFICER	Tony Boswell



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Published 2014

## **Site and Location**

The application site consists of a vacant working men's club and an associated car park at 37-39 Long Street, Wigston. The site lies approximately 200 metres south-west of Wigston town centre.

The working men's club on the site dates from the mid to late 19<sup>th</sup> Century. It is a predominantly red brick structure with a slate roof, although its front elevation has been somewhat unsympathetically finished in off-white render.

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

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

The site is relatively flat. It sits approximately one metre above the level of the dental surgery car park to the north.

The site is accessed off Long Street. The access is shared with the place of worship to the east.

The site lies within The Lanes Conservation Area. The nearest listed buildings are the Grade I listed All Saints Church approximately 170 metres to the south-west, the Grade II listed Wigston Reform Church approximately 75 metres to the north-east and the Grade II listed Avenue House 20 metres to the west.

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

## **Description of proposal**

The application proposes the demolition of the working men's club and the erection of a block of flats and 8 terraced houses together with associated parking and storage facilities.

The proposed block of flats fronts Long Street. It is a three storey structure which contains a total of 12 two bedroom units. The building measures approximately 8.5 metres high to eaves and approximately 13.5 metres high to ridge. It has a width of approximately 22.2 metres and a depth of 15 metres. The block of flats is sited off the boundary with the commercial units to the south of the site, which will expose part of its north elevation.

The proposed terraced dwellings are two and a half storey three bedroom properties. They are arranged in a staggered row towards the eastern boundary of the site, set back from Long Street to the rear of the proposed block of flats across the frontage. The dwellings measure 5.5 metres high to eaves and 8.8 metres high to ridge. They have a width of 4.8 metres and a depth of 9.8 metres. The dwellings are served by private rear gardens which back on to the place of worship to the east of the site.

An area of dedicated off-street parking is to be provided between the block of flats and the terraced dwellings. It contains a total of 17 surface parking spaces arranged in two rows. A further two parking spaces are to be provided within and in front of a single garage attached to and associated with the dwelling on the northern end of the terrace.

The proposal also includes provision for the storage of bicycles and refuse. The storage building measures 4.2 metres by 4.5 metres and has a ridge height of 3.1 metres.

It is proposed to utilise the existing site access onto Long Street.

The statutory determination period for the applications expired on the 5<sup>th</sup> May 2016, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

### **Relevant Planning History**

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

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

### **Consultations**

Historic England – Has identified the existing working men's club as a building which makes a positive contribution to the conservation area, the total loss of which will result in harm to the significance of this designated heritage asset. The proposed block of flats creates an over-bearing relationship to its immediate surroundings and its architectural treatment is not of any particular quality and does not reflect the local distinctiveness of the conservation area. The proposal would harm the significance of the conservation area, and the setting of nearby Grade I and II listed buildings. Historic England does not consider that the scheme is justified in heritage terms and does not support the application.

Leicestershire County Council (Heritage Team) – Considers that existing building on the site contributes to the significance of the conservation area and that its loss would harm the special quality of the heritage asset. The replacement houses and flats are not of sufficient architectural quality to justify the proposed development. The proposals do not promote or reinforce local distinctiveness and are out of keeping with their surroundings.

Leicestershire County Council (Contributions Team) – Requests £24,065.72 towards education and £600 towards libraries. The Civic Amenity Site at Oadby will be able to meet the needs of the development and as such no contribution is requested.

Leicestershire County Council (Highways) - There is insufficient information submitted with this application to enable a full, reasoned Highway Authority response to be given. Further details are needed. A revised layout / parking drawing is required addressing issues of the possible impact of the development on the road network, highway safety and capacity and the sustainability of the development.

### **Representations**

Neighbours have been informed and a notice placed with one letter of representation being received at the time of writing this report.

The date for the receipt of comments expired on the 5<sup>th</sup> May 2016.

The reasons for objection can be summarised as follows: -

- The access road is owned by the Trustees of the Kingdom Hall and the applicant has a right of way over it. However, agreement would need to be reached in order for the applicant to use the additional areas shown in the application.
- There is insufficient parking provision within the scheme.
- The Kingdom Hall would be screened from view which could compromise security. Enhanced security measures should be required.
- Sufficient space should be left to maintain boundary fencing.
- A footpath should be provided in the applicant's land alongside the access road.
- The scheme should be amended to widen the access road to the Kingdom Hall.

- The bin store must be properly managed and fit for purpose.

## **Relevant Planning Policies**

### National Planning Policy Framework

In particular Sections 6, 7 and 12

### Oadby & Wigston Core Strategy

Core Strategy Policy 1:	Spatial Strategy
Core Strategy Policy 4:	Sustainable Transport & Accessibility
Core Strategy Policy 14:	Design and Construction
Core Strategy Policy 15:	Landscape and Character

### Oadby and Wigston Local Plan

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

### Supplementary Planning Document/Other Guidance

Conservation Areas Supplementary Planning Document

Residential Development Supplementary Planning Document

## **Planning Considerations**

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

- The principle of residential development in this location
- The impact of the proposal upon the character and appearance of The Lanes Conservation Area and the setting of nearby listed buildings
- The impact of the proposal on neighbouring residential properties.
- The impact of the proposal upon the safe and efficient use of the highway network

### The principle of residential development in this location

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

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

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

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

### The impact of the proposal upon the character and appearance of The Lanes Conservation Area and the setting of nearby listed buildings

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

Policy 15 of the Core Strategy requires new development to reflect the prevailing quality, character and features of the landscape and townscape. It encourages the preservation and enhancement of the character and appearance of the Borough's Conservation Areas and listed buildings.

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

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

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

The demolition of the former working men's club would expose part of the north elevation of the adjoining commercial building. The finish of the north elevation of the commercial building is an unknown quantity but it is not unreasonable to assume that it is not finished in facing brickwork given that it was never intended to be visible. This wall lies outside of the applicants control and as such opportunities for remediation are limited. It is considered that this issue can only satisfactorily be resolved by altering the siting of the proposed building.

The demolition of the former working men's club would therefore harm the character and appearance of the conservation area.

Paragraph 16.15 of the Conservation Areas SPD states that in order to be acceptable, the design of any new building in The Lanes Conservation Area will need to respect its character by being of an appropriate mass and scale to avoid dominating the existing mainly two storey properties and/or to maintain an appropriate juxtaposition of scales, and respect prevalent architectural detailing.

Surrounding buildings are predominantly two or two-and-a-half storeys in height, creating a continuous and harmonious urban form. The proposed three storey block of flats is significantly taller than the building which it is to replace, and significantly taller than neighbouring buildings. It would therefore present a much more prominent feature in the streetscene, which would have an overbearing relationship to its immediate surroundings by way of its height, scale and massing.

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

The proposed flats and dwellings have a contemporary character and appearance, which in accordance with Paragraph 60 of the NPPF is not considered an unacceptable design approach in principle. However, it has not been convincingly demonstrated that the proposals promote or reinforce local distinctiveness. The Design and Access Statement contains photographs of various

local buildings, some of which contribute positively to the conservation area, but fails to describe rigorously how the proposed design will match or improve the character and quality of the area. The proposed flats and dwellings have numerous gables 'to assist in creating interesting roof forms'. The historic buildings illustrated in the Design and Access Statement typically use such features sparingly, often to emphasise or add weight to a particular part of a property. The gables on the flats are poorly related visually to the fenestration underneath, and the numerous projections on the proposed houses result in a 'saw tooth' profile that is at odds with traditional residential terraces in the area. The proposal fails promote or reinforce the distinctive character of Wigston.

Furthermore, the area between the two new buildings is almost entirely taken up by what is likely to be a bland and unattractive car park, with the bin store incongruously sited in what should be the gateway to the scheme. This weak treatment of the space between the buildings would exacerbate the harm of the scheme upon the character and appearance of its surroundings.

The proposed block of flats and dwellings would therefore harm the character and appearance of the conservation area. The proposals would be read as part of the setting of the Grade I listed All Saints Church, the Grade II listed Wigston Reform Church and the Grade II listed Avenue House and would cause some harm to these settings.

It is concluded that the character and appearance of the conservation area and the setting of nearby listed buildings would be harmed both through the total loss of the existing building on the site as well as the visual impact of its proposed replacement. The harm affects only part of the Conservation Area and the setting of the listed buildings and as such it is considered that it is less than substantial. It must be stressed that less than substantial harm does not necessarily equate to acceptable harm. Paragraph 134 of the NPPF requires this harm to be weighed against the public benefits of the scheme.

The proposals would be beneficial insofar as they would contribute towards delivering the new homes that the country needs. In the short term the proposal would bring about the economic benefits associated with new development including supporting the construction industry both directly through construction jobs on site and indirectly through the supply chain. In the medium to long term, the occupants of the development could reasonably be expected to support local services and facilities. These benefits are acknowledged, but on balance when assigning significant weight to the conservation of the heritage asset as required by Paragraph 132 of the NPPF, they fail to outweigh the harm to the character, appearance and setting of the heritage assets identified in the preceding paragraphs of this report. There is therefore no clear and convincing justification for the proposals in this instance.

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

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

The application site lies within a predominantly commercial area. However, there are neighbouring residential properties at Willow Place to the south of the site and at 43 Long Street to the north.

The proposals are sufficiently distant from principal windows serving 43 Long Street to avoid resulting in unacceptable loss of daylight or privacy.

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

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

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

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

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

The comments of the Highway Authority are noted. However, the key issue with regard to highway implications is whether the proposals would result in a severe impact upon the highway network. In assessing the impact of the proposals, consideration must be given to the established use of the site. Although the former working men's club is currently vacant, it could be brought back into use without the need for a further application. This fallback position should be given considerable weight in the determination of the application. According to the County Council's standards, the established use of the site has a higher parking requirement than that associated with the proposed dwellings. As such it is reasonable to assume that the proposed dwellings would result in fewer trips to and from the site. Given that the proposals utilise the same access as the former working men's club, it follows that the proposed residential properties would have a lesser impact upon the safe and efficient use of the highway network than the established use of the site. In accordance with Paragraph 32 of the NPPF resisting these proposals on the grounds of impact upon the safe and efficient use of the highway network could not therefore be substantiated.

The County Council's parking standards require a minimum provision of 1½ spaces per dwelling with 2 bedrooms or less, and 2 spaces per 3 bedroom dwelling. This gives a total requirement of 34 parking spaces associated with the development. The proposals provide 18 spaces and as such fall short of that requirement.

However, the application site is sustainably located. It is situated on the edge of the Wigston town centre which contains a range of services and facilities. The site lies within comfortable walking distance of these services and facilities. Furthermore, the site lies approximately 200 metres from a bus stop served by numerous and frequent services. The location of the site is therefore inherently sustainable.

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

#### Other Issues

The concerns raised regarding the security of adjacent properties and the maintenance of boundary fencing do not constitute material planning considerations relevant to the outcome of this application. The right of access to the neighbouring place of worship is maintained and the proposed development does not justify widening it. A footpath could be secured by condition should the scheme be approved.

#### **Conclusion**

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

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

However, the proposals would harm the significance, character and appearance of The Lanes Conservation Area as well as the setting of the Grade I listed All Saints Church, the Grade II listed Wigston Reform Church and the Grade II listed Avenue House. The acknowledged benefits of the scheme fail to outweigh this less than substantial harm and as such it has not been clearly and convincingly justified.

### 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 have to be balanced against the rights of neighbours.
Equal Opportunities	No Significant implications
Risk Assessment	No Significant implications
Value for Money	No Significant implications
Equalities	No Significant implications
Legal	No Significant implications

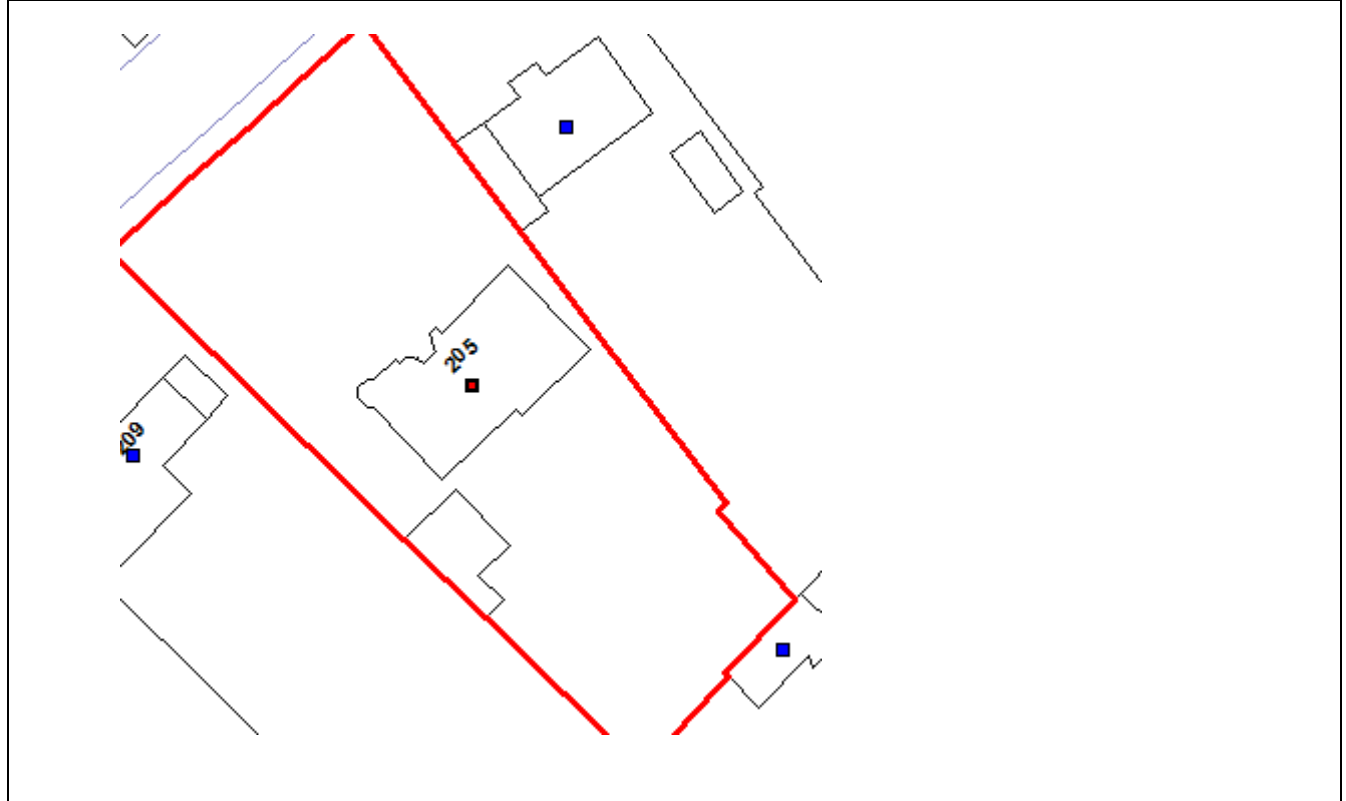
### RECOMMENDATION: REFUSE

#### The Reason(s) for refusal are:

- 1 The proposal would result in the replacement of an historic building which contributes to the character and appearance of The Lanes Conservation Area with new development which, by way of its height, scale and massing and many aspects of its design and layout, would present an incongruous and unacceptably overbearing feature on both Long Street and the area as a whole - to the detriment of the character and appearance of the Conservation Area and setting of nearby Grade 1 and 2 Listed Buildings. The submitted proposals would thereby result in a less than substantial harm to the character and appearance of The Lanes Conservation Area, as well as to the setting of the setting of the Grade 1 Listed All Saints Church, the Grade 2 Listed Wigston Reform Church and the Grade 2 Listed Avenue House. The housing and other public benefits associated with the proposal fail to outweigh this harm, and might well arise from an alternative and superior form of design and layout which was more sympathetic to the character and appearance of the Conservation Area. This being the case, the harm to the character and appearance of the Conservation Area and to the setting of nearby listed buildings is not clearly and persuasively justified, contrary to Section 12 of the National Planning Policy Framework (in particular paragraphs 132 and 134), Policies 14 and 15 of the Oadby and Wigston Core Strategy and the relevant Conservation Areas Supplementary Planning Document.



4.	16/00163/FUL	205 Wigston Road Oadby Leicestershire LE2 5JF
	5 April 2016	Single and two storey extension.
	CASE OFFICER	Jon Imber



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Published 2014

## Site and Location

The application site is a large detached property on the south east side of Wigston Road on Oadby/Wigston boundary. The property is a dormer bungalow constructed of red brickwork with white render, set back well from the road and behind the line of adjacent properties. The roof is hipped, with a cone shaped turret to one side and a front "eyebrow" dormer with stained glass. Later additions include a series of flat roofed dormers to the sides and rear.

## Description of proposal

The application proposes the addition of a very large rear extension to the property. This would protrude a maximum of some 13m in the centre of the plot. In part this would be single storey and in part 2 storey under a flat roof no higher than the existing roof. There would also be extension and alteration to the existing dormers.

Councillor Linda Broadley has requested that the application be brought to committee for determination. The statutory determination period for this application expired on the 31<sup>st</sup> May 2016.

## Relevant Planning History

15/00436/FUL – Single and two storey extensions including balconies – Refused by Committee on the grounds that the proposal would result in continuous development of a one and a half storey nature in close proximity to the boundary with no.203 Wigston Road which would be overbearing on the adjacent property and would result in a loss of amenity to residents of that property. This would be further exacerbated by the land level differences between the two properties with the ground level at no.205 being 1.2m higher than the neighbour.

## Consultations

Leicestershire County Council (Highways) – No comments

## Representations

Neighbours have been informed and a site notice posted. Letters of representation have been received from occupiers of the immediately adjacent dwellings.

The reasons for objection can be summarised as follows: -

- Considers that the new proposal is even larger than that previously refused (Officer comment: It is not as can be demonstrated on the overlaid plans)
- The proposal extends the property, which is already set back from both adjoining properties, by a considerable distance. The recommended depth of 8m has not been adhered to and although some reduction has been made, at 9m deep, this is not enough to reduce the impact on the neighbouring property. (Officer comment: This refers to the distance of continuous depth along the boundary where the previous proposal measured 11 metres and it was suggested that this be reduced to 8m. The current proposal shows a comparable depth of 9m at eaves level, with the dormer having a depth of 6m within that. 8m was a suggested length and is not prescriptive or anything other than guidance.)
- The increase in size of the building, particularly with the roof being altered from hipped to part gabled, would result in continuous 2 storey development in close proximity to no.203; being overbearing and impacting on amenities (unspecified), which is further exacerbated by the difference in ground levels between the properties. (Officer comment: The first floor dormer is about 9m distant from the quarter point of the nbrs ground floor window, which the code of practice guidance puts beyond the code. It is in excess of 3m from the common boundary.)
- Errors in the application – red line plan in Design and Access statement shows the wrong plot and photo is incorrectly labelled as rear. (Officer comment: The DAS does not form part of the application per se and is not a requirement for householder applications in any event.)
- The cladding and colour scheme doesn't fit into the surrounding area and with the design and character of the remaining house. (Officer comment: Materials can be conditioned.)

- Full length windows at first floor rear could be used as doors allowing flat roofs to be used as balconies/ terraces. This would result in overlooking and a loss of privacy. (Officer comment: Balcony/ terraces can be conditioned out.)
- 45 degree code is being breached
- Difference in land levels – concern over how overbearing the proposal would be.
- Light to the garden at no.203 would be blocked. (Officer comment: The two storey rear extension is at least 4.5m from the boundary; there are trees and shrubbery along the boundary.)
- Overbearing and restricting daylight and sunlight to no.203. (Officer comment: 45 degree code objectively assesses this.)
- Loss of privacy and overlooking to no.203. (Officer comment: On the flank elevation at first floor level 2 windows are shown; one serves an en suite and the other a store. These can be conditioned to be obscure glazed.)
- Concern that the property may not be used as a family dwelling. (Officer comment: If a material change of use takes place in the future then it would need to be assessed at that time in accordance with national and local policy.)

## **Relevant Planning Policies**

### National Planning Policy Framework

### Oadby & Wigston Core Strategy

Core Strategy Policy 14: Design and Construction

### Oadby and Wigston Local Plan

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

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

### Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document

## **Planning Considerations**

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

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

### The impact of the proposal on the street scene

The existing property is set back from the highway by over 20 metres. As a result, the property is set back behind the building line of other properties in the street. The design of the extension continues the slope of the existing hipped roof rearwards on the south west elevation, and in effect, uses the roof space for the first floor accommodation. To the north east the first floor element is set in well from the flank wall so that the flat roofed element would not be readily visible from public vantage points.

The proposal incorporates dormers onto both sides of the roof. These dormers would be rather large and would be visible within the street scene, appearing as large flat roofed additions. One side is a rearward enlargement of an existing dormer, while the other is set back behind the turret and broadly in line with the new extension. The materials proposed for their cladding would include concrete tiles to match the existing for the foremost dormer and cream render for the rearmost.

The single and two storey rear extensions would not be readily visible within the street scene and their design and appearance is not therefore susceptible to public scrutiny. The proposal seeks to use a modern design with grey powder coated window and door frames, grey tiling, and areas of cream or grey render.

A condition would be included to require details of materials to be submitted and approved in writing by the Local Planning Authority

The flat roofed extensions would not be particularly visible from the sides, due to the roof design of the south west elevation and to the degree of set back from the properties on either side. Likewise, the proposed materials which would not be sympathetic to the materials used on the exterior of the existing property, would not be visible from the public domain. The proposal is considered to be of an acceptable design which would not have a detrimental impact on the character and appearance of the street scene.

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

The proposal includes three distinct areas of single storey with flat roofs above which neighbours fear may be used as terraces. These are above bedroom 3 to the east; above the existing garage to the west and above the new kitchen dining room to the rear (south east). There would be no ready means of access to the former two areas, while the latter area would be directly beyond bedroom 5, separated by full length windows. A condition could be imposed to restrict access to and the use of this area, to safeguard against use as a terrace would be likely to cause overlooking and loss of privacy.

The previous application was refused by committee contrary to officer recommendation. This new proposal has focussed on the north east side and its relationship with no.203. The main difference between the current and refused schemes is the extent of the first floor side dormer and roof. The previously refused scheme proposed a dormer of about 6.7m wide, the surrounding gable ended roof extending a further 0.4m or thereabouts; the new proposal has reduced the dormer to about 6.2m width, and the roof design has been amended to a hip, such that there is no further roof at high level beyond the cheek of the dormer. However there would be a very minor roof "addition" at eaves level to accommodate the lower slope of this hipped roof. The overall effect is a reduction in bulk of this aspect.

The impact on residential amenity can be assessed by the 45 degree code, which involves drawing a line at 45 degrees from the closest affected habitable room window at the neighbouring property. When assessing the impact of two storey development, this line is taken from the quarter point of the window. The neighbour has concerns that the 45 degree line is being breached. However, having regard to a rear extension on the neighbouring property (203) not shown on the location and block plans, I am satisfied that the correct line has been drawn. It appears that the line would be clipped by the new hipped roof at eaves level only, although it should be noted that there is already flat roof at above this height in this position, such that the very minor clipping as proposed would not worsen the existing situation and that the distance of the infringement would be more than 8m distant, the cut off distance for the 45 degree code.

The impact of the proposal on the amenity of the other neighbouring property at no.209 Wigston Road is considered to be acceptable as the proposed extensions are a substantial distance from the property, separated by both the applicant's and neighbour's garages. There would therefore be no breach of the 45 degree code on this side and the extensions are not considered to be overbearing. The first floor window facing no.209 could be conditioned to be obscure glazed and non-opening. In summary, the proposed development is not considered to cause significant harm to the amenity of neighbouring properties.

#### **Conclusion**

In summary, the proposed development is considered to secure further improvements as compared to the refused scheme. The application is considered to be acceptable in terms of its impact on the character and appearance of the street scene and the impact on the amenity of neighbouring residential properties.

## Implications Statement

Health	No Significant implications
Environment	No Significant implications
Community Safety	No Significant implications
Human Rights	The rights of the applicant to develop his property has to be balanced against the rights of neighbours.
Equal Opportunities	No Significant implications
Risk Assessment	No Significant implications
Value for Money	No Significant implications
Equalities	No Significant implications
Legal	No Significant implications

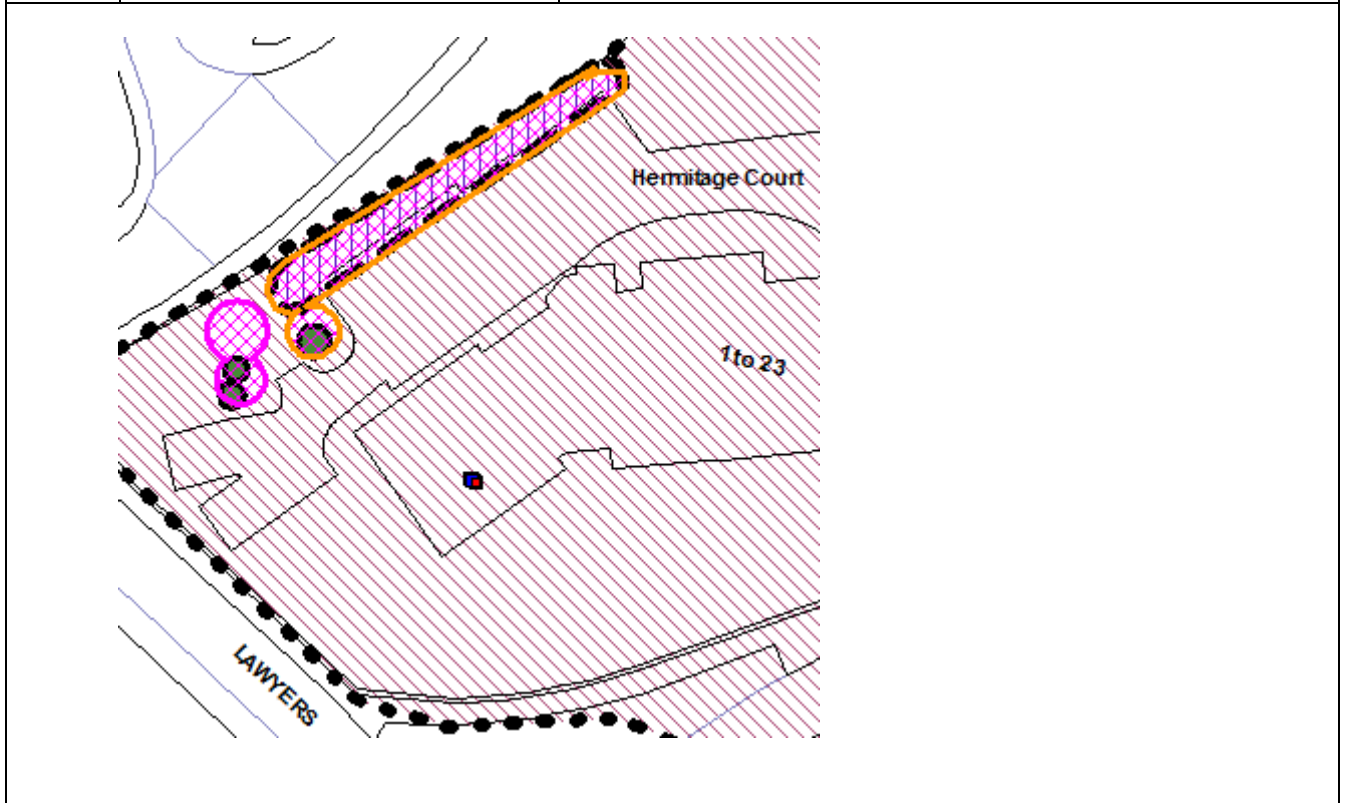
## RECOMMENDATION: GRANTS

### Subject to the following condition(s)

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
**Reason:** To conform with Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 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 the colour of the proposed render (either self-coloured or by means of a painted finish) shall be submitted to and approved in writing by the Local Planning Authority. The render (including its agreed colour) shall be completed within 2 months of the substantial completion of the development.  
**Reason:** To safeguard the character and appearance of the building and its surroundings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14 and Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 4 The flat roof areas to the ground floor extensions and over the garage shall not be converted or used as a terrace, balcony or other open amenity space.  
**Reason:** It is considered that such a use would be detrimental to the amenities of adjoining and neighbouring properties by reason of overlooking and loss of privacy contrary to Landscape Proposal 1 and Housing Proposal 17 of the Oadby and Wigston Local Plan.
- 5 The first floor windows on either side elevation shall be fitted with obscure glass and shall be of a non-opening design up to a minimum height of 1.7 metres above the internal finished floor level. The windows shall be retained in that condition.  
**Reason:** To safeguard the privacy of occupiers of the adjoining property and in accordance with Landscape Proposal 1 and Housing Proposal 17 of the Oadby and Wigston Local Plan.
- 6 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.

5.	16/00223/TPO	Hermitage Court Honeywell Close Oadby Leicestershire LE2 5QQ
	4 May 2016	Fell 25 No. Leylandii Conifers (TPO 2009) and remove pendulous branch from specimen Pine.
	CASE OFFICER	Henry Pearson



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## Site and Location

Hermitage Court is situated on the corner of Wigston Road and Lawyers Lane. The property has been developed into residential flats. The site lies within, Leicestershire County Council Oadby (The Hermitage) Tree Preservation Order 1962 and London Road And Saint Peters Church Conservation Area. The trees in question are on the northern side of the site and form a barrier between the dwellings and Wigston Road.

## Description of proposal

The proposal is to remove the 25 leylandii trees which make up the barrier between Hermitage Court and Wigston Road and replant the 30m stretch with mature laurel with interspersed evergreen shrubs and 2-3 specimen trees, as well as to remove one of the lower branches of another conifer. The covering email sent with the application points out that hedges cannot be covered by a tree preservation order.

Therefore the foremost proposal is to revoke the protection of the Tree Preservation Order: Leicestershire County Council Oadby (The Hermitage) Tree Preservation Order 1962.

The proposal states that if the leylandii trees are causing damage to the block paved car park making it difficult for residents to park.

The statutory determination period for this application expires on the 29.06.2016, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

## Recommendations

It is my recommendation that the works be permitted under approval of an agreed replacement schedule.

The hedgerow is not covered by the Tree Preservation Order and so no legal objection can be raised.

However the council should strive to come to an agreement with Oadby Management Co Ltd. to replace the hedge with a planting scheme that will provide similar if not greater amenity and its associated benefits to the residents.

The removal of 'pendulous' limb from the neighbouring conifer is remedial tree management work and should be permitted as it will increase the usable area and with the removal of the hedge will have little impact on the area's amenity.

Information

Relevant Planning History

10/00299/TPO - 30 percent Reduction in height of 28 No. Conifer trees (Hermitage Court, Honeywell Close, Oadby) Tree Preservation Order 2009 & (Hermitage Court, Honeywell Close, Oadby) (No.2) Tree Preservation Order 2010. Permitted 30.09.2016

11/00440/TPO - Reduction in height of 25No. Conifer trees (G1) by 20% (Hermitage Court, Honeywell Close, Oadby) Tree Preservation Order 2009. Permitted 05.01.2012

13/00098/TPO - Reduction in width and height of 25No. Conifer trees (Hermitage Court, Honeywell Close, Oadby) Tree Preservation Order 2009. Permitted 23.05.2013

## Representations

Neighbours have been informed and a notice placed with 3 letters of representation (from 3 properties) being received at the time of writing this report.

The date for the receipt of comments expired on the 1 June 2016

The reasons for objection can be summarised as follows: -

- Loss of amenity value
- Loss of privacy
- Loss of shelter
- Bird droppings are not significant and not a nuisance
- Loss of sound barrier (Wigston Road)



- Photos of car park in the application are misleading, residents can / and do still park with ease.

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

- Worries over liability for uneven kerbs and paving
- Bird droppings are a nuisance
- The trees are a danger
- Lack of sunlight

### **Planning Considerations**

#### The impact of the proposal on the street scene

The removal of the hedge will remove a large section of green cover which forms a screen, from the street scene. However the replacement with broadleaved evergreen (Laurel) hedgerow, interspersed with 2-3 trees and herbaceous shrubs would replace some of the visual amenity lost.

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

The Hedge as it stands forms a visual and sound barrier between the properties within Hermitage Court and Wigston Road.

The removal of the hedge will increase sound levels to these properties, however not to an unacceptable level.

#### Tree Preservation Order

The area is covered by Leicestershire County Council Oadby (The Hermitage) Tree Preservation Order 1962.

The TPO is an area Order not covering specified trees, but rather the trees that were situated in the area at the time the order was made.

The hedgerow in question is an amenity hedge and so therefore cannot be covered by the order.

Leicester Country Council is reviewing its TPO's in the area and have produced a plan for the new TPO. This proposed new order does not cover the hedge in question.

### **RECOMMENDATION: GRANTS**

- 1 It is my recommendation that the works be permitted under approval of an agreed replacement schedule.  
The hedgerow is not covered by the Tree Preservation Order and so no legal objection can be raised.
- 2 However the council should strive to come to an agreement with Oadby Management Co Ltd. to replace the hedge with a planting scheme that will provide similar if not greater amenity and its associated benefits to the residents.  
The suggested Laurel hedge will not provide the an equal or greater level of amenity as the leylandii hedge does. I would suggest that alternatives are looked into:-  
e.g.
  1. A high Beech (*Fagus sylvatica*) hedge(6-12ft), having both spring/summer and autumn/winter canopy and colours.
  2. A high pleached Lime (*Tilia cordata* / *Tilia platyphyllos*) tree line with seasonal under-planting. Offering the high cover required with the added variation of the under-planting. Both of the above suggestions are centred on native trees and fit the proposed ideas within the draft Tree Strategy. These or similar options would have the added benefit of increased biodiversity over the leylandii or laurel.

6.	16/00239/COU	3 Victoria Street Wigston Leicestershire LE18 1AJ
	12 May 2016	Retention of single storey extension to rear of dwelling. Conversion of dwelling into 3 self contained flats. 2 x 1 bed apartments and 1 x 2 bed apartment.
	CASE OFFICER	Jon Imber



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## **Introduction**

This application is one of two identical applications relating to neighbouring dwellings at 3 and 5 Victoria Street, Wigston. The application submitted in respect of the neighbouring property is also on the agenda. The applications have been referred to the Planning Applications Committee at the request of Cllr Broadley.

## **Site and Location**

3 Victoria Street is a two storey terraced dwelling which lies on a predominantly residential street on the edge of Wigston town centre.

The dwelling is of red brick construction with a concrete tile roof. It has a character and appearance typical of traditional Victorian terraces.

The property is separated from the adjoining dwelling by a brick boundary wall approximately two metres in height. Other boundary treatments consist of a mixture of relatively tall brick walls and adjoining outbuildings. The site is relatively flat.

Surrounding land uses include residential properties to the south and west, a public house to the north and a print works and an MOT testing and service centre to the east. The site lies within a 50 metre walk of the town centre which contains a range of associated services and facilities.

The dwelling does not have any associated off-street parking provision.

The building is not listed and neither does it lie within or adjacent to a conservation area. There are no specific designations affecting the property identified within either the Saved Local Plan or the Core Strategy.

## **Description of proposal**

The application proposes the retention of single storey rear extension, together with the conversion of the property from a single dwellinghouse into three self-contained flats.

The rear extension to be retained measures approximately 11.6 metres deep by 3.45 metres wide. It is mono-pitched with an eaves height of approximately 2.6 metres and a ridge height of approximately 3.5 metres. The extension is constructed from red brickwork and concrete tiles matching those of the existing dwelling.

The property would contain a single two bedroomed apartment on the first and second floors and two single bedroomed apartments at ground floor level. The two bedroomed apartments on the upper floors are to be accessed via the front doors to the existing dwelling, with the ground floor apartments accessed via the central passageway between 3 and 5 Victoria Street.

A communal cycle storage and outdoor amenity area is to be provided at the rear of the property. No off-street parking is proposed.

The statutory determination period for the application expired on the 7th July 2016, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

## **Relevant Planning History**

13/00240/FUL: Erection of two storey front extension, raising of height to provide second floor accommodation and single storey rear extension – Approved 8<sup>th</sup> August 2013

16/00174/FUL: Conversion of a dwelling house to 3 self contained units (2 x 1 bed and 1 x 2 bed) – Withdrawn 16<sup>th</sup> May 2016

## **Consultations**

The Planning Policy Team – the principle of the development is acceptable in planning policy terms

Leicestershire County Council (Highways) – refers to its standing advice with particular reference to the provision of ground floor windows not opening outwards.

### **Representations**

Neighbours have been informed and a notice placed with 2 letters of representation (one from a local resident and the other from Victoria Residents' Association) being received at the time of writing this report.

The date for the receipt of comments expired on the 7 March 2016.

The reasons for objection can be summarised as follows: -

- The proposals would increase pressure for on street parking in an area where there is already a shortfall. There are double yellow lines along the southern side of the street, the street is used as free parking associated with the town centre and the car park at the east end of the street is not for residents.
- Disruption during construction.

### **Relevant Planning Policies**

#### National Planning Policy Framework

#### Oadby & Wigston Core Strategy

Core Strategy Policy 1:	Spatial Strategy
Core Strategy Policy 4:	Sustainable Transport & Accessibility
Core Strategy Policy 14:	Design and Construction
Core Strategy Policy 15:	Landscape and Character

#### Oadby and Wigston Local Plan

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

#### Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document

### **Planning Considerations**

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

- The principle of converting the dwelling into flats
- The impact of the proposal on the street scene
- The impact of the proposal on neighbouring residential properties.
- The impact of the proposal upon the safe and efficient use of the highway network

#### The principle of converting the dwelling into flats

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

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

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

The application proposes the intensification of residential use within an existing building in the Leicester Principal Urban area. The site lies within an area containing a mixture of residential and commercial properties. It is sustainably located within walking distance of a range of services and facilities in the town centre. The proposal would contribute towards the Government's key aim of delivering new housing in a sustainable location as set out in Paragraph 17 of the NPPF. In accordance with Core Strategy Policy 1, and the presumption in favour of sustainable development set out in Paragraphs 14 and 49 of the NPPF, the broad principle of converting the dwelling to provide more residential units is therefore considered acceptable.

#### The impact of the proposal on the street scene

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

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

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

Policy H17 expands upon the provisions of Policy H1 with specific reference to residential extensions and curtilage buildings. It requires extensions to be subservient to the existing property and not result in unacceptable loss of space about dwellings.

The extension to be retained is sited to the rear of the dwelling. It is not readily visible from public vantage points to the north, south or west. The side elevation of the extension is visible from Leicester Road. However, it is viewed in the context of the intervening pub car park and garage forecourt. It appears as a slightly taller section of the brick boundary wall that demarcates the eastern boundary to the property, and is by no means a prominent feature within the streetscene.

The extension to be retained does not therefore detrimentally affect the character or appearance of the streetscene and as such accord with Core Strategy Policies 14 and 15 and Saved Policies LP1 and H17 of the Oadby and Wigston Local Plan.

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

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

The extension is sited on the boundary with commercial rather than residential properties. It does not therefore cause loss of daylight or sunlight to neighbouring dwellings.

The existing brick boundary wall between 3 and 5 Victoria Street prevents overlooking between the two properties.

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

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

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

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

The County Council's parking standards require a minimum provision of 1 ½ spaces per dwelling with 2 bedrooms or less. The proposals fall short of that requirement.

However, the application site is sustainably located. It is situated on the edge of the Wigston town centre which contains a range of services and facilities. The site lies within comfortable walking distance of these services and facilities. Furthermore, the site lies within 100 metres of a bus stop served by numerous and frequent services. The location of the site is therefore inherently sustainable.

Whilst the proposal may lead to a modest increase in on street parking, this is already prevalent in the surrounding area. In this context it is not considered that a modest increase in street parking would prejudice the safe or efficient use of this part of the highway network.

Whilst the impact of increased on-street parking upon highway safety is a material planning consideration, increased competition for parking spaces is not. The Council cannot therefore attach weight to these concerns.

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

### **Conclusion**

The proposal involves the intensification of use of an established residential property which is sustainably located within the Leicester Principal Urban Area. The principle of the development is therefore established by Core Strategy Policy 1 and the National Planning Policy Framework.

The proposals do not detrimentally affect the character or appearance of their surroundings, the amenities enjoyed by the occupiers of neighbouring residential properties or the safe and efficient use of the highway network.

The proposals therefore accord with Policies 4, 14 and 15 of the Core Strategy, Saved Policies LP1 and H17 of the Oadby and Wigston Local Plan, the Residential Development Supplementary Planning Document and the National Planning Policy Framework.

### **Implications Statement**

Health	No Significant implications
Environment	No Significant implications
Community Safety	No Significant implications
Human Rights	The rights of the applicant to develop his property has to be balanced against the rights of neighbours.
Equal Opportunities	No Significant implications
Risk Assessment	No Significant implications
Value for Money	No Significant implications
Equalities	No Significant implications
Legal	No Significant implications

## **RECOMMENDATION: GRANTS**

### Subject to the following condition(s)

- 1 Prior to the first occupation of any of the flats hereby permitted, the cycle storage areas shown on the approved plans shall be provided and shall thereafter be retained for the life of the development.  
**Reason:** In the interests of the sustainability of the development and to encourage alternative transport in accordance with Core Strategy 4.
  
- 2 Unless otherwise first approved in writing (by means of a Non-material Amendment/Minor Material Amendment or a new Planning Permission) by the Local Planning Authority the development hereby permitted shall be carried out in accordance with the approved plans and particulars listed in the schedule below.  
**Reason:** For the avoidance of doubt as to what is permitted by this permission and in the interests of proper planning.

7.	16/00240/COU	5 Victoria Street Wigston Leicestershire LE18 1AJ
	12 May 2016	Conversion of dwelling into 3 self contained flats (2 x 1 bed apartments and 1 x 2 bed apartment) including retention of single-storey rear extension.
	CASE OFFICER	Jon Imber



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## **Introduction**

This application is one of two identical applications relating to neighbouring dwellings at 3 and 5 Victoria Street, Wigston. The application submitted in respect of the neighbouring property is also on the agenda. The applications have been referred to the Planning Applications Committee at the request of Cllr Broadley.

## **Site and Location**

5 Victoria Street is a two storey terraced dwelling which lies on a predominantly residential street on the edge of Wigston town centre.

The dwelling is of red brick construction with a concrete tile roof. It has a character and appearance typical of traditional Victorian terraces.

The property is separated from the adjoining dwelling by a brick boundary wall approximately two metres in height. Other boundary treatments consist of a mixture of relatively tall brick walls, timber fencing and adjoining outbuildings. The site is relatively flat.

Surrounding land uses include residential properties to the south, east and west and a public house to the north. The site lies within a 50 metre walk of the town centre which contains a range of associated services and facilities.

The dwelling does not have any associated off-street parking provision.

The building is not listed and neither does it lie within or adjacent to a conservation area. There are no specific designations affecting the property identified within either the Saved Local Plan or the Core Strategy.

## **Description of proposal**

The application proposes the retention of single storey rear extension, together with the conversion of the property from a single dwellinghouse into three self-contained flats.

The rear extension to be retained measures approximately 11.6 metres deep by 3.45 metres wide. It is mono-pitched with an eaves height of approximately 2.6 metres and a ridge height of approximately 3.5 metres. The extension is constructed from red brickwork and concrete tiles matching those of the existing dwelling.

The property would contain a single two bed roomed apartment on the first and second floors and two single bed roomed apartments at ground floor level. The two bed roomed apartments on the upper floors are to be accessed via the front doors to the existing dwelling, with the ground floor apartments accessed via the central passageway between 3 and 5 Victoria Street.

A communal cycle storage and outdoor amenity area is to be provided at the rear of the property. No off-street parking is proposed.

The statutory determination period for the application expired on the 7th July 2016, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

## **Relevant Planning History**

13/00231/FUL: Erection of two storey front extension, raising of height to provide second floor accommodation and single storey rear extension – Approved 8<sup>th</sup> August 2013

16/00176/FUL: Conversion of a dwelling house to 3 self contained units (2 x 1 bed and 1 x 2 bed) – Withdrawn 16<sup>th</sup> May 2016

## **Consultations**

The Planning Policy Team – the principle of the development is acceptable in planning policy terms.

Leicestershire County Council (Highways) – refers to its standing advice with particular reference to the provision of ground floor windows not opening outwards.

## **Representations**

Neighbours have been informed and a notice placed with 2 letters of representation (one from a local resident and the other from Victoria Residents' Association) being received at the time of writing this report.

The date for the receipt of comments expired on the 7 March 2016.

The reasons for objection can be summarised as follows: -

- The proposals would increase pressure for on street parking in an area where there is already a shortfall. There are double yellow lines along the southern side of the street, the street is used as free parking associated with the town centre and the car park at the east end of the street is not for residents.
- Disruption during construction.

## **Relevant Planning Policies**

### National Planning Policy Framework

#### Oadby & Wigston Core Strategy

Core Strategy Policy 1:	Spatial Strategy
Core Strategy Policy 4:	Sustainable Transport & Accessibility
Core Strategy Policy 14:	Design and Construction
Core Strategy Policy 15:	Landscape and Character

#### Oadby and Wigston Local Plan

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

### Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document

## **Planning Considerations**

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

- The principle of converting the dwelling into flats
- The impact of the proposal on the street scene
- The impact of the proposal on neighbouring residential properties.
- The impact of the proposal upon the safe and efficient use of the highway network

### The principle of converting the dwelling into flats

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

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

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

The application proposes the intensification of residential use within an existing building in the Leicester Principal Urban area. The site lies within an area containing a mixture of residential and commercial properties. It is sustainably located within walking distance of a range of services and facilities in the town centre. The proposal would contribute towards the Government's key aim of delivering new housing in a sustainable location as set out in Paragraph 17 of the NPPF. In accordance with Core Strategy Policy 1, and the presumption in favour of sustainable development set out in Paragraphs 14 and 49 of the NPPF, the broad principle of converting the dwelling to provide more residential units is therefore considered acceptable.

#### The impact of the proposal on the street scene

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

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

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

Policy H17 expands upon the provisions of Policy H1 with specific reference to residential extensions and curtilage buildings. It requires extensions to be subservient to the existing property and not result in unacceptable loss of space about dwellings.

The extension to be retained is sited to the rear of the dwelling. It is not readily visible from public vantage points. The extension does not therefore detrimentally affect the character or appearance of the streetscene and as such accord with Core Strategy Policies 14 and 15 and Saved Policies LP1 and H17 of the Oadby and Wigston Local Plan.

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

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

The extension is sited upon the boundary with the dwelling to the west. The Residential Development SPD states that single storey extensions on, or within one metre of, side boundaries should not extend for an effective length of more than 3.5 metres beyond the rear of the original dwelling. The extension projects further than 3.5 metres. However, the site currently benefits from planning permission for a larger rear extension. The impact of the extension to be retained upon the neighbouring dwellings is no greater than that permitted, and refusal of this application on the grounds of overbearing impact could not therefore be justified.

The existing brick boundary wall between 3 and 5 Victoria Street prevents overlooking between the two properties.

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

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

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

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

The County Council's parking standards require a minimum provision of 1 ½ spaces per dwelling with 2 bedrooms or less. The proposals fall short of that requirement.

However, the application site is sustainably located. It is situated on the edge of the Wigston town centre which contains a range of services and facilities. The site lies within comfortable walking distance of these services and facilities. Furthermore, the site lies within 100 metres of a bus stop served by numerous and frequent services. The location of the site is therefore inherently sustainable.

Whilst the proposal may lead to a modest increase in on street parking, this is already prevalent in the surrounding area. In this context it is not considered that a modest increase in street parking would prejudice the safe or efficient use of this part of the highway network.

Whilst the impact of increased on-street parking upon highway safety is a material planning consideration, increased competition for parking spaces is not. The Council cannot therefore attach weight to these concerns.

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

### **Conclusion**

The proposal involves the intensification of use of an established residential property which is sustainably located within the Leicester Principal Urban Area. The principle of the development is therefore established by Core Strategy Policy 1 and the National Planning Policy Framework.

The proposals do not detrimentally affect the character or appearance of their surroundings, the amenities enjoyed by the occupiers of neighbouring residential properties or the safe and efficient use of the highway network.

The proposals therefore accord with Policies 4, 14 and 15 of the Core Strategy, Saved Policies LP1 and H17 of the Oadby and Wigston Local Plan, the Residential Development Supplementary Planning Document and the National Planning Policy Framework.

## Implications Statement

Health	No Significant implications
Environment	No Significant implications
Community Safety	No Significant implications
Human Rights	The rights of the applicant to develop his property has to be balanced against the rights of neighbours.
Equal Opportunities	No Significant implications
Risk Assessment	No Significant implications
Value for Money	No Significant implications
Equalities	No Significant implications
Legal	No Significant implications

## RECOMMENDATION: GRANTS

### Subject to the following condition(s)

- 1 Prior to the first occupation of any of the flats hereby permitted, the cycle storage areas shown on the approved plans shall be provided and thereafter retained for the life of the development.  
Reason: In the interests of sustainability of the development and to encourage alternative transport in accordance with Core strategy 4.
- 2 Unless otherwise first approved in writing (by means of a Non-material Amendment/Minor Material Amendment or a new Planning Permission) by the Local Planning Authority the development hereby permitted shall be carried out in accordance with the approved plans and particulars listed in the schedule below.  
**Reason:** For the avoidance of doubt as to what is permitted by this permission and in the interests of proper planning.

BACKGROUND PAPERS

12/00435/CLE

12/00437/CLE

16/00024/FUL

16/00163/FUL

16/00223/TPO

16/00239/COU

16/00240/COU