

**MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT THE
COUNCIL OFFICES, STATION ROAD, WIGSTON ON THURSDAY, 25 AUGUST 2016
COMMENCING AT 7.00 PM**

<p><u>IN ATTENDANCE:</u> Chair - Councillor L A Bentley Vice-Chair - Councillor Mrs L M Broadley</p> <p><u>COUNCILLORS (11):</u></p> <table border="0"> <tr> <td>G S Atwal</td> <td>B Dave</td> <td>Dr T K Khong</td> </tr> <tr> <td>G A Boulter</td> <td>R E Fahey</td> <td>Mrs H E Loydall</td> </tr> <tr> <td>F S Broadley</td> <td>D A Gamble</td> <td>R E R Morris</td> </tr> <tr> <td>D M Carter</td> <td>J Kaufman</td> <td></td> </tr> </table> <p><u>OFFICERS IN ATTENDANCE (4):</u></p> <table border="0"> <tr> <td>S J Ball</td> <td>D Gill</td> </tr> <tr> <td>T Boswell</td> <td>P McEvoy</td> </tr> </table> <p><u>OTHERS IN ATTENDANCE (1):</u> Dr J Mercer</p>	G S Atwal	B Dave	Dr T K Khong	G A Boulter	R E Fahey	Mrs H E Loydall	F S Broadley	D A Gamble	R E R Morris	D M Carter	J Kaufman		S J Ball	D Gill	T Boswell	P McEvoy
G S Atwal	B Dave	Dr T K Khong														
G A Boulter	R E Fahey	Mrs H E Loydall														
F S Broadley	D A Gamble	R E R Morris														
D M Carter	J Kaufman															
S J Ball	D Gill															
T Boswell	P McEvoy															

Min Ref.	Narrative	Officer Resp.
10.	<p><u>APOLOGIES FOR ABSENCE</u></p> <p>An apology for absence was received from Councillor Mrs S Z Haq.</p>	
11.	<p><u>APPOINTMENT OF SUBSTITUTES</u></p> <p>None.</p>	
12.	<p><u>DECLARATIONS OF INTEREST</u></p> <p>In respect of planning application number 16/00175/FUL:</p> <p>(i) Councillor R E Fahey declared a non-pecuniary interest insofar as he had previously presented a petition to the Leicestershire County Council Highway Forum for Oadby and Wigston on 15 October 2015 regarding car parking abuse by parents on, amongst other streets in the area, New Street, Oadby;</p> <p>(ii) Councillors J Kaufman and D A Gamble declared a non-pecuniary interest insofar as they had previously supported community campaigns lead by the Save Our Schools (Oadby) campaign group.</p> <p>All Members confirmed that they attended the meeting without prejudice and with an open mind.</p>	
13.	<p><u>MINUTES OF THE PREVIOUS MEETING HELD ON 28 JULY 2016</u></p> <p>RESOLVED THAT:</p> <p>The minutes of the previous meeting of the Committee held on 28 July 2016 be taken as read, confirmed and signed.</p>	

14.	<p><u>PETITIONS AND DEPUTATIONS</u></p> <p>None.</p>	
15.	<p><u>DELEGATION TO OFFICERS OF CLUED'S AND SIMILAR QUASI-JUDICIAL DECISIONS</u></p> <p>The Committee gave consideration to the report (at pages 8 - 9) as delivered and summarised by the Interim Planning Control Manager which should be read together with these minutes as a composite document.</p> <p>Councillor Mrs H E Loydall moved the recommendations <i>en bloc</i> as set out at paragraphs 2.1 and 2.2 of the report (at page 8).</p> <p>The Vice-Chair seconded the recommendations.</p> <p>UNANIMOUSLY RESOLVED THAT:</p> <p>(i) In future, all applications for a Certificate of Lawful Use (CLUED), should ordinarily be delegated to the Planning Control and Regeneration Manager acting in consultation with legal advice, where any question of relevant law arises; and</p> <p>(ii) Such applications for any Certificate of Lawful Use (CLUED) should not ordinarily give rise to public consultations as would any "ordinary" planning application, other than any specific enquiries to establish or confirm the facts of the case, sufficient to confirm those facts beyond a balance of probabilities.</p>	
16.	<p><u>REPORT OF THE PLANNING CONTROL MANAGER</u></p> <p>1. Application No. 6/00175/FUL - Launde Primary School, New Street, Oadby, Leicester, Leicestershire, LE2 4LJ</p> <p>Dr Justine Mercer spoke upon the application on behalf the Save Our Schools (Oadby) campaign group as an objector. She stated that the application, if granted, would exacerbate the traffic congestion on New Street, Oadby due to a proposed increased pupil capacity from 540 to 640 students. She opined that due process had been subverted as a Travel Plan had not been submitted before, or at the time, of the making of the application. It was said that the recommendation (at page 19) was not based upon the proper scrutiny of the recently published Travel Plan which, in her opinion, offered little to mitigate traffic congestion and requested the Plan be remitted for improvement and review before the application was to be considered.</p> <p>Councillor Mrs H E Loydall sought clarification from the speaker as to the cited increase in pupil capacity.</p> <p>Dr Mercer stated that, to her understanding, an increase of 100 pupils was anticipated by the application's proposal.</p> <p>The Committee gave consideration to the report (at pages 11 - 18) as delivered and summarised by the Interim Planning Control Manager which should be read together with these minutes as a composite document.</p> <p>The Interim Planning Control Manager added that the existing Travel Plan, as proposed at condition 3 (at page 17), was a starting point to achieve an</p>	

attenuation in traffic congestion and that there were numerous initiatives for potential inclusion within the Plan that could consistently lower car generation. He stated that the Travel Plan was to be reviewed annual by the school's governing body to achieve this.

The Chair moved for the application to be debated by the Committee.

Councillor Mrs H E Loydall seconded the Chair's motion.

Councillor J Kaufman enquired as to how any measurement of the success of the proposed Travel Plan to mitigate traffic congestion was to be ascertained.

The Interim Planning Control Manager advised that the school, as part of its annual review process, was to monitor and compare the levels of car generation from the start to the end of the next academic year and to make adjustments (viz. a walking-bus arrangement, parental contracts) to the Plan, accordingly.

With reference to the 'Summary' (at page 16), Councillor B Dave sought clarification as to 'providing the applicant can *demonstrate at a minimum...*' (emphasis added). He was critical of the short commentary provided by the Highways Authority at Leicestershire County Council (at page 12) and stated that content of the report in respect of the traffic congestion did not reconcile with the situation on the ground.

The Legal Advisor advised that the expert commentary provided by the Highways Authority, albeit short, was to be read as no objection(s) having been raised. He stated that Members' objections must be robustly formulated to withstand scrutiny.

Councillor K J Loydall asked whether the anticipated highway works by the Highways Authority had been taken into consideration in respect of the application.

The Legal Advisor advised than any proposed works by the Highways Authority was an enforcement matter and was not tantamount to an objection of highways grounds.

Councillor G S Atwal enquired as to the feasibility to condition the installation of CCTV as an enforcement measure and to adjust the catchment area for the school in question to alleviate the traffic congestion.

The Interim Planning Control Manager and Legal Advisor jointly-advised that the questionable legal basis for the installation of CCTV, particularly in respect of data protection, rendered any condition potentially unlawful. Members were further advised that it was not the proper remit for a school to act as an enforcement agent.

The Chair advised that this Council had no jurisdiction over catchment areas.

The Vice-Chair noted the potential implications as to increased traffic congestion and stated that due weight and consideration ought to be give to the existing Travel Plan.

The Chair moved to substantively amend condition 3 (at page 17) from '...a

School Travel Plan shall be undertaken...' to 'shall be *approved by Officers*' (emphasis added).

Councillor D M Carter seconded the substantive amendment.

UNANIMOUSLY RESOLVED THAT:

Condition 3 (as set out in the report at page 17) be amended, accordingly.

With reference to the 'Description of proposal' (at page 12), Councillor Mrs H E Loydall enquired as how the existing playground was to be compensated. She said that no reference was made in the report to neither confirm nor deny the suggested increase in pupil capacity. She further warned that, if Members were minded to refuse planning permission on highways grounds, the prospect of a successful appeal was probable given the Highway Authority's expert determination.

The Legal Advisor advised that refusal on the aforesaid grounds may be considered as unreasonable and, therefore, would warrant substantial costs borne to this Council upon an appeal.

The Interim Planning Control Manager reported that the application sought to erect two new teaching blocks/classrooms and that no exact figure as to the additional number of pupils was known. He stated that a re-configuration of the external playground area between the existing buildings and wider premises would provide for such adequate compensation of loss of space.

Councillor Mrs H E Loydall requested the Chair to investigate the adequate and sufficient provision of playground area(s) in view of the increased capacity.

With reference to the 'Description of proposal' (at page 12), Councillor G A Boulter sought assurances as to whether a replacement on-site tree provision was in place.

With reference to the application plan, the Interim Planning Control Manager reported that a tree survey accompanied the application and that: a number of significant trees surrounding the proposed buildings were to be retained; some trees to be removed were to be replaced; and some trees to be permanently removed to accommodate the proposal were considered either minor or insignificant.

Councillor R E R Morris suggested a staggering of the start and end times between the different key stage groups at the school in order to alleviate traffic congestion.

The Legal Advisor noted that, if Members were minded to permit planning permission subject to the aforesaid amendment, the Council was in a position of strength to insist on a robust Travel Plan to address a long-standing issue which would otherwise be impossible to control and, or, influence if permission was refused.

Councillor R E Fahey enquired as to the appropriate level on Member involvement in the formation of the Travel Plan.

The Chair and Legal Advisor jointly-advised that the delegation to Officers with the professional expertise was required to properly manage the issue

<p>and that Members were not restricted from indirectly contributing to the consultation process.</p> <p>Councillor J Kaufman expressed his concern regarding the omission of a number of salient facts from the report upon which to make a less than fully-informed decision.</p> <p>Councillor G A Boulter enquired as to the omission of the permitted hours of construction from the application's conditions.</p> <p>The Legal Advisor advised that other, more effective legal and regulatory mechanisms (viz. statutory noise nuisances, abatement notices, temporary stop notices) were available to regulate and enforce upon this area of concern.</p> <p>Councillor G A Boulter moved to substantively add a condition so that any replacement planting of trees would be situated on-site.</p> <p>Councillor Mrs H E Loydall seconded the substantive addition.</p> <p>UNANIMOUSLY RESOLVED THAT:</p> <p>That a condition requiring the replacement planting of trees to be situated on-site be added, accordingly.</p> <p>UNANIMOUSLY RESOLVED THAT:</p> <p>The application be PERMITTED planning permission subject to the condition(s) (as amended).</p>	
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THE MEETING CLOSED AT 8.09 PM



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CHAIR
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THURSDAY, 22 SEPTEMBER 2016
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