

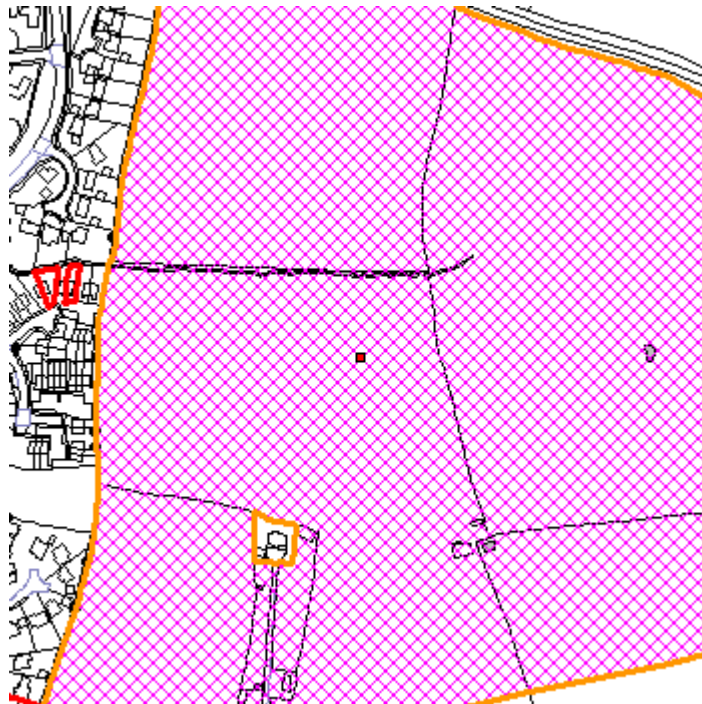
Application Number Address

Report Items

1. 16/00316/REM Land South
 Newton Lane
 Wigston
 Leicestershire

2. 16/00479/TPO 119 Saffron Road
 Wigston
 Leicestershire
 LE18 4UQ

1.	16/00316/REM	Land South Newton Lane Wigston Leicestershire
	4 August 2016	Reserved matters application for the residential development of 450 dwellings, open space, allotments, landscaping and storm water balancing and associated infrastructure on Land South of Newton Lane - pursuant to outline planning permission 13/00403/OUT.
	CASE OFFICER	Jon Imber



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Site and Location

The application site consists of approximately 26.7 hectares to the south of Newton Lane, Wigston. It comprises agricultural land on the south-western edge of the Leicester Principal Urban Area. The site lies approximately 1km south-west of Wigston Town Centre.

Surrounding land uses include residential properties to the west, residential properties and open countryside to the north, and open countryside to the east and south. The residential property at Spring Cottage Farm is enclosed by the application site, but is excluded from it.

Field boundaries predominantly consist of established hedgerows interspersed with mature trees. Boundary hedgerows are generally between 2.5 and 4 metres in height, but are noticeably lower towards the northern extent of the western site boundary, where they have been trimmed by neighbouring residents.

The site fronts Newton Lane to the north and Cooks Lane to the South. It is currently accessed via field gates from Newton Lane. There is a public footpath which crosses the southernmost field, which links Cooks Lane to an area of public open space to the south of Mablowe Field.

The topography of the site is gently undulating. It is bisected by a stream which runs along the southern boundaries of the two north-westernmost fields.

The nearest conservation area to the site the Grand Union Canal, which lies approximately 0.6km south of the site. The nearest listed building lies 0.8km away.

According to Environment Agency mapping, the site lies predominantly within Flood Zone 1, where the risk of fluvial flooding is less than 1 in 1000.

The site lies outside of any settlement boundary within the Saved Local Plan in an area designated as countryside. It lies within the indicative Broad Direction for Growth identified within the Core Strategy.

The site benefits from outline planning permission for the erection of up to 450 dwellings, which was granted in February 2016 – subject to an extensive S106 obligation..

Description of proposal

This application seeks the approval of reserved matters for residential phase of outline planning permission 13/00403/OUT.

The application proposes:

- the erection of 450 dwellings;
- the provision of associated public open space, sports pitches and allotments;
- the formation of access onto Newton Lane via a new roundabout and associated internal estate roads; and
- associated landscaping, fencing and walling.

The proposed dwellings comprise a mixture of detached, semi-detached and terraced properties varying between two and three storeys in height. There are also twelve maisonettes and a single flat over a garage block. The dwellings are predominantly two storey buildings. Of the 450 dwellings to be provided on the site, 296 (66%) are two storey properties, 125 (27%) are two and a half storey properties, 16 (4%) are three storey properties and the remaining 13 (3%) are flats. The flats are contained within two storey buildings.

The development has a gross density of approximately 16.85 dwellings per hectare, and a net density of approximately 31.18 dwellings per hectare. The scheme proposes a mixture of 1,2,3,4 and 5 bed roomed properties with floor spaces varying between approximately 46m² and 235m². Of the 450 dwellings, 90 are to be affordable housing. This represents 20% of the total provision on the site.

The site is to be accessed via a new roundabout on Newton Lane to the north. The roundabout is situated to the south-west of the existing dwellings on the northern side of Newton Road. The internal estate roads are arranged around a central loop which runs around the northern part of the site with spurs serving the extremities of the site. An extended spur towards Cooks Lane provides access to the southern portion of the development. The application does not propose vehicular access onto Cooks Lane.

As required by the Section 106 agreement relating to the outline planning permission, a bus service will be routed through the site which will run around the central loop.

The proposals include two junior sports pitches to the south-east of Spring Cottage Farm, and an area of proposed allotments on the eastern edge of the site. The layout shows numerous areas of public open space throughout the development, including a swathe running along the line of the watercourse which crosses the site.

The application is accompanied by: -

- A **Sustainability Statement** as required by Condition 6 of the outline planning permission, which sets out measures to boost the sustainability credentials of the development including the retention of hedgerows and trees where possible, use of locally sourced and recyclable building materials where possible, and the incorporation of sustainable drainage techniques.
- A **Biodiversity Management Plan** as required by Condition 12 of the outline planning permission, which sets out measures for the retention and management of existing habitats as well as the creation of new habitats to maximise opportunities for wildlife.
- An **Archaeological Geophysical Survey** and Trial Trench Evaluation which identify that the development area lies in an area of sparse prehistoric activity and outside and pre-medieval settlement.

The statutory determination period for the application expired on the 3rd November 2016, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

13/00404/OUT – Mixed use development for up to 450 dwellings & 2.5 hectares of employment land (B1/B2) along with new formal recreation space with changing facilities, allotments, landscaping & storm water balancing & associated infrastructure – Conditionally approved February 2016

Outline planning permission 13/00403/OUT was granted subject to a Section 106 agreement which obligates the developer to provide affordable housing, open space and a community facility building on the site, and to pay contributions towards public transport (including subsidising a bus service through the site), libraries and improving facilities at local schools. These obligations all remain in force, together with the conditions attached to the outline planning permission.

Consultations

Wigston Civic Society – Raises concerns regarding the high density of the scheme and potential flooding. States that soft landscaping details, details of the bus route, the treatment of the public footpath and pedestrian access to the Wigston Harcourt estate are not clear. Seeks reassurance that the scheme complies with the Section 106 agreement attached to the outline permission. Considers that a public meeting should be held.

Leicestershire County Council (Highways) – Is satisfied that the proposals will not lead to severe impacts upon the highway network. Raises technical issues that will need to be considered before it will adopt the scheme, including details of traffic calming measures, and a preference for there being no verge or street trees within the highway and for raised tables to be tarmaced rather than block paved.

Representations

Neighbours have been informed and three notices placed adjacent to the site. The proposals have also been publicised in the local press. 29 letters of representation have been received at the time of writing this report.

The date for the receipt of comments expired on the 23rd September 2016.

The reasons for objection can be summarised as follows: -

- Newton Lane is already congested and cannot cope with the additional traffic that would be generated by the development. A single access point is inadequate for a development of this size.
- Vehicle speeds on Newton Lane are high and traffic calming measures should be put in place.
- Local schools are at capacity and the development will increase pressure on them. It was initially suggested that a school would be built on the site.
- Increased waiting times for local GPs
- Devaluation of property and increased difficulty in selling. Compensation should be granted.
- Loss of privacy and overshadowing. There is a significant difference in levels between the site and existing properties to the west.
- Disturbance during construction. Working hours should be stipulated by condition. The Guthlaxton Road will not be able to cope with heavy lorries.
- Increased flood risk. The stream swells significantly during rainfall and increasing the amount of built development in its catchment will exacerbate this.
- The proposal would be out of character with its surroundings
- The development is too large
- It is not a good idea to have affordable housing and its parking areas so close to 4 or 5 bedroom properties. They should be located within the development rather than on the edge.
- Impact on wildlife. Additional surveys should have been carried out
- The parking courts behind existing residential properties could quickly become run down and used as play areas/meeting places for young people
- The provision of flats is out of keeping with the existing housing stock in Wigston Harcourt and does not provide a suitable environment for young families.
- The balancing ponds proposed will rarely contain any water and will be stagnated, foul smelling and a health and safety hazard.
- The plans shown an encroachment onto our eastern boundary
- The football pitches are too close to my property and will cause problems with noise and antisocial behaviour.
- The scheme does not provide any infrastructure for residents.
- Loss of countryside when there are brownfield sites available.
- Boundary fencing should be provided to the properties on Blackwell Close
- The hedgerow along the western site boundary should be protected.
- We had been assured that no three storey properties were proposed on the site
- Lifetime homes should be provided on the site
- It is essential that properties are energy efficient
- A bus service should be routed through the site
- Footpaths should be provided to encourage walking
- The density of the scheme appears high
- A youth and community centre should be provided

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 7: The Countryside

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

Developer Contributions Supplementary Planning Document

Residential Development Supplementary Planning Document

Planning Considerations

The site benefits from outline planning permission for the erection of up to 450 dwellings, which was granted in February 2016. The outline application included details of the means of access to the site. As such, the principle of erecting 450 dwellings on the site accessed via Newton Road is established.

It should be noted that the developer must comply with the Section 106 agreement and any conditions attached to the outline planning permission.

This application seeks approval of matters reserved by the outline application, namely the layout of the site, the scale and appearance of the proposed dwellings and landscaping.

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

- The impact of the proposal upon the character and appearance of its surroundings
- The impact of the proposal on neighbouring residential properties.
- The impact of the proposal upon the safe and efficient use of the highway network
- Other issues including flood risk and protected species

The impact of the proposal upon the character and appearance of its surroundings

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.

Paragraph 109 of the NPPF states that the planning system should contribute to the natural and local environment by protecting and enhancing valued landscapes.

The application site comprises agricultural land on the south-eastern edge of the Leicester Principal Urban Area. The site lies within the Wigston East sub area of the Oadby and Wigston Vales Landscape Character Area as defined by the Borough-wide Landscape Character Assessment. This sub area marks the transition between the urban area to the north and the rural landscape of the River Sence valley. The Landscape Character Assessment identifies the gradual transition from town to country and vice versa as a particular visual strength of this area, particularly when travelling on the roads radiating into/out of the area.

The site is viewed in the context of the existing built development on the edge of the urban area, which reduces its sensitivity in landscape character terms. The proposed layout demonstrates that the applicant has taken care to assimilate the site into the landscape, with the incorporation of buffer

zones consisting of public open space and allotments on the rural fringe to the east, and the retention where possible of hedgerows and key trees.

Any change in the landscape character of the site would be at its most evident during the construction phase and shortly after completion. However, over time the design measures proposed would successfully mitigate impacts. In the medium to long term, the effects of the proposal in landscape character terms would be a shifting of the urban/rural edge slightly eastwards. It is not considered that this would be harmful to the wider landscape context.

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.

The development has a net density of approximately 31 dwellings per hectare, which strikes an appropriate balance between the desirability of making efficient use of building land and preserving the character of the rural fringe. The layout shows a development of predominantly two storey dwellings, in keeping with the prevailing built context. The dwellings are laid out broadly in a perimeter block formation, so that they are outward looking and present active frontages to the public realm and the surrounding countryside. Within the site, dwellings have been arranged to create well defined spaces, with individual units sited to terminate views into and within the development. A range of parking solutions has been employed to prevent a dominance of frontage parking.

Individual dwellings have been designed to have a fairly traditional character and appearance. They are predominantly fairly simple in massing and form, with a traditional material palette consisting of principally red facing brickwork, light coloured render and dark tiled roofs. This traditionally inspired design approach is considered appropriate to context.

Permeability through the scheme is achieved via a hierarchy of streets. These vary in character from a principal avenue which acts as a main route through the site, flanked by grass verges with street trees and buildings spaces to give a character or openness, to narrower lanes and private drives with a more intimate character. This clear hierarchy promotes legibility.

The proposed development is a high quality scheme that is appropriate to its built and landscape context. The proposals therefore accord with Policies 14 and 15 of the Core Strategy and Sections 6, 7 and Paragraph 109 of the National Planning Policy Framework.

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 site adjoins existing residential properties to the west. The proposed dwellings are sufficiently distant from existing properties to avoid causing them unacceptable loss of daylight. Furthermore, the windows of the proposed houses are generally sufficiently distant from existing dwellings and their garden areas to avoid resulting in unacceptable loss of privacy. Potential exceptions to this are at Plots 3, 49 and 244 where flank windows could overlook part of the existing gardens to the west. It is therefore recommended that the flank windows on these plots be obscure glazed. This can be secured by condition.

The dwellings to the north of the site are all sufficiently distant from the proposed new properties to avoid any unacceptable loss of daylight or privacy.

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 proposed sports pitches lie over 35 metres from the existing dwelling at Spring Cottage Farm. It is not considered that children playing on the pitches would cause levels of noise or disturbance that would unacceptably affect the amenities enjoyed by its occupants.

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 Highway Authority is satisfied that the proposals would not cause severe impacts on the highway network, and that they are therefore NPPF compliant.

With regard to the technical issues raised by the Highway Authority, a meeting was held at the County Hall which was attended by the applicants design team, representatives of the Highway Authority and the case officer. At the meeting it was concluded that the technical issues raised by the Highway Authority can all be satisfactorily addressed, allowing the scheme to be adopted. Fundamentally, the Highway Authority will accept street trees and verges within the highway, as well as block raised tables as required by the scheme's design guide since the applicant has agreed to provide for their future maintenance over time.

The comments of local residents regarding the impact of traffic generated by the development, particularly on Newton Lane, are noted. However, the outline planning permission granted in February 2016 approved both the principle of erecting 450 dwellings on the site, and the access onto Newton Road. As such those issues fall outside the scope of this application for the approval of reserved matters. It should, however, be noted that the outline planning permission secures off-site highway works and a subsidised bus service through the site.

Other issues including flood risk and protected species

Section 10 of the NPPF seeks to ensure that new development is not at risk from flooding, and does not increase flood risk elsewhere. It advocates the use of a sequential test with the aim of steering development to areas with the lowest probability of flooding. The Environment Agency produces flood risk mapping with the areas at highest risk identified as Zone 3, where there is an annual probability of flooding of greater than 1 in 100, and the areas of lowest risk identified as Zone 1, where the annual probability of flooding is less than 1 in 1000.

Paragraph 118 of the NPPF states that if significant harm to biodiversity cannot be avoided, adequately mitigated or as a last resort compensated for, planning permission should be refused.

The impacts of the proposals upon flooding and ecology were considered in detail at outline stage and have been addressed via conditions attached to the outline planning permission. In particular, Condition 17 of the outline planning permission requires the implementation of a sustainable drainage system, and makes provision for its subsequent maintenance.

The concerns raised by local residents regarding devaluation of property do not constitute a material planning consideration and as such cannot be given any weight in the determination of this application.

Concerns have also been raised by local residents regarding increased pressure on local services and infrastructure. Such impacts are a matter for consideration at outline rather than reserved matters stage. The outline planning permission establishes the principle of erecting 450 dwellings on the site, and as such this application for reserved matters cannot be resisted on the grounds that this level of development would impact upon local services. It should be noted that the outline planning permission secures contributions towards improving local schools and libraries to ensure that they have capacity to accommodate the increased demand generated by the proposed new houses.

In response to the objections raised regarding encroachment onto neighbouring land, the applicants have confirmed that their ownership extends to the whole of the application site.

Conclusion

The principle of erecting 450 dwellings on the site with access via Newton Lane is established by Outline Planning permission 13/00403/OUT dated 19th February 2016.

The proposals would not unacceptably harm landscape character, and are appropriate to their context in urban design terms.

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.

The proposals would not exacerbate flood risk and would not unacceptably harm protected species or their habitats.

The proposals therefore constitute sustainable development which accords with Policies 1,4,15 and 15 of the Core Strategy 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 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.
- 2 No development shall take place until samples or details of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details.
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 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of any of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are

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19 January 2017

removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that an approved landscaping scheme is implemented in a speedy and diligent way and that initial plant losses are overcome in the interests of the visual amenities of the locality and the occupiers of adjacent buildings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 4 The scheme of walling and fencing approved as part of the detailed scheme of boundary treatment shall be completed prior to the first occupation of the dwelling to which the fencing/walling relates.

Reason: To safeguard the visual amenities of the area, the amenities of the future occupiers of the dwellings, and the occupiers of adjoining properties and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14 and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 5 Any first and second floor windows in the west elevations of Plots 31, 49 and 244 shall be permanently glazed in obscure glass, and the door shall not be replaced without the prior written consent of the Local Planning Authority.

Reason: To safeguard the privacy of occupiers of the adjoining properties and in accordance with Landscape Proposal 1 and Housing Proposal 17 of the Oadby and Wigston Local Plan.

2.	16/00479/TPO	119 Saffron Road Wigston Leicestershire LE18 4UQ
	21 October 2016	Removal of TG1 (Oak) due to subsidence.
	CASE OFFICER	Henry Pearson



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Site and Location

119 Saffron road is situated to the rear of the applicants property, 1 Moores Close, South Wigston Leicestershire, LE18 4WT. Moores Close is situated just off an old MOD housing estate west of Saffron Road, the area is one of few areas within South Wigston which has substantial tree cover, and is under consideration for a Local Greenspace Designation. The area has a wide variety of native mature trees combined with amenity grassland. South of the site are Government buildings and MOD properties, the north of the site leads through the housing and open spaces into Eyres Monsell Park (Leicester City Council)

Description of proposal

Fell Mature Oak Tree (TG1- 119 Saffron Road) in response to the subsidence of a conservatory at the rear of 1 Moores Close.

The statutory determination period for this application expires on the 16.12.2016, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

15/00015/TPO - Removal of T3 to reduce and mitigate effects of subsidence. – Returned 30.08.2016

16/00378/TPO - Removal of T3 to reduce and mitigate effects of subsidence. – Refused 22.09.2016

Consultations

OWBC Building Control - According the NHBC a strip foundation in medium shrinkage soil would be 0.90m minimum foundation depth where the site ground conditions are not influenced by trees.

OWBC Tree Warden –

- The application is poor, confused and contradictory to itself
- The foundations of the conservatory do not meet NHBC standards
- Crawford 2016 addendum recommends underpinning works to be undertaken if permission T3 was refused.
- The oak tree is mature and healthy and provides substantial amenity
- Roots found in the bore holes are insignificant to justify the removal of the oak. Correlation is not causation.
- 3-4 Large broadleaved trees have been felled already in response to letters sent out from the insurance company.
- Evidence of damage is 4 years out of date.
- Other casual factors have not been ruled out.
- The conservatory has been built over a shared drain, with shallow foundations and no keyed in brickwork.

Representations

Neighbours have been informed and a press/site notice placed with no letters of representation being received at the time of writing this report. The date for the receipt of comments expires on the 21 November 2016.

Neighbours have been informed and a notice placed with 2 letters of representation (from 2 properties) being received at the time of writing this report.

The date for the receipt of comments expired on the 21 November 2016

The reasons for objection can be summarised as follows: -

- The Oak tree (TG1) is a very large, beautifully shaped and mature tree which enhances the rear gardens along Crete Avenue and the views from Crete Avenue.
- 4No. Mature trees and 1No. Leylandii hedge have been removed from the immediate or immediately adjacent properties in response to the subsidence, yet the conservatory still subsides, no more trees should be removed/amenity lost for the conservatory.

- I have spoken at length to my neighbours re: the above matter and, indeed, have great sympathy with their situation. However I do love trees which enhance this district and the wildlife it contains. Therefore if it is definitely proved that this tree is causing the problem I do not object but if there is no definite proof, I do.

Relevant Planning Policies

National Planning Policy Framework

Oadby & Wigston Core Strategy

Core Strategy Policy 5:

Oadby and Wigston Local Plan

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 tree is readily visible from the green space between Crete Avenue and Hindoostan Avenue as well as a large section of Saffron Road. The tree forms part of the cohesive canopy cover that softens the view of the industrial estate, west of Saffron Road, when entering the borough. The depletion of this canopy cover is something that should be resisted as the visual amenity is very important as Saffron Road is one of the main routes into and out of the borough.

The impact of the proposal on neighbouring residential properties

The tree is readily visible from no less than 18 properties around its locale. The neighbours have already lost the amenity from 4 mature trees in relation to the subsidence of the conservatory. The tree is also a valuable source of sustenance and shelter for local wildlife, as well as acting as a carbon sink. The area also benefits from the disruption, translocation and dissipation of storm water provided by in part by this tree and its neighbouring trees.

Conclusion

The applicant MWA Arboriculture has applied to remove a large mature *Quercus robur* (T2 Oadby and Wigston Borough Council Wigston (Saffron Road) (No.1) Tree Preservation Order 1983) from the property of 119 Saffron Road, South Wigston in response to a claim of subsidence of a conservatory on the adjacent property of 1 Moores Close, South Wigston.

T2 has been risk assessed using the T.H.R.E.A.T.S. (Tree Hazard: Risk Evaluation and Treatment System (Forbes-Laird Arboricultural Consultancy 2010)) method, the tree has a risk factor of 0.8 which equates to a risk category of Insignificant. Therefore the tree is deemed safe.

Further to this the tree has been valued using the CAVAT method, the resultant value of the tree being calculated at £57,301.

This is the third application received by Oadby and Wigston Borough Council for the removal of trees from the immediate or adjacent areas to the property in connection with the subsidence of the conservatory.

The first application was received on the 15.01.2015 (Mrs T. Wells, 7 Crete Avenue 15/00015/TPO) the application was made in response to a letter (dated 19.10.2012) sent to the neighbours of 1 Moores Close, the letter stated that Crawford & Company Adjusters (UK) LTD, are dealing with a subsidence claim and that T3 Contorted Willow is a potential threat and that whilst they do not consider the vegetation to be part of the claim, the owners should remove the tree as they could be held liable for future damage. This application was never validated as it was incomplete. The application was returned on 30.08.2016.

The Second application was received 22.08.2016 (MWA Arboriculture) again applying for permission to remove T3 Contorted Willow. Oadby and Wigston Borough Council Refused the application on 22.09.2016 on the grounds that the conservatory's foundations were built far below the standards set out in the NHBC Standard 4.2 (Building Near Trees). As the foundations of the structure fall roughly ¼ as deep as the standards state, combined with the fact the structure is not keyed into the existing brick work as well as the previous removal of 1No. large Sycamore from 155 Saffron Road and at least 3No. Mature trees from 119 Saffron Road, all in response to the letter and report sent by Crawford & Company in 2012 (referenced above). It was determined that any further removal of trees would have a noticeable and detrimental effect to the visual and ecological amenity of the area.

The evidence submitted in the reports by MWA Arboriculture on behalf of Crawford and Company do show proof that there is subsidence in the property however the cause of the subsidence cannot from the evidence submitted be solely attributed to the tree, whilst the evidence suggests the tree may play a role in the natural shrinkage and heave of the clay soil, the fact remains that the conservatory is moving because it is on shallow foundations and not substantially fixed to the building, the removal of this tree will in all likelihood have very little effect upon the movement of the conservatory. The Factual Report (27.04.2015) states that there is a displaced joint within the drainage system underneath the conservatory; this is not addressed within the subsidence report which focuses on the removal of the trees as the main management. The selection of tree to be felled has been inconsistent with the recommendations made in the reports. The earliest arboricultural report (2012) does detail, Oak (TG1), to be removed however in the more recent report (2015) it is recommended to reassess the tree after the removal of T3. As permission was refused for T3 to be removed the applicant has applied to remove Oak (TG1) with no further assessment.

In this case remedial and structural works to the conservatory would be the more appropriate remedy to the issue.

Implications Statement

Health	No Significant implications
Environment	No Significant implications, however minor loss of habitat for both flora and fauna may have an impact should the application be permitted
Community Safety	No Significant implications
Human Rights	There are no significant implications as removal of the tree is only one of many options to remediate the damage.
Equal Opportunities	No Significant implications
Risk Assessment	No Significant implications
Value for Money	No Significant implications
Equalities	No Significant implications
Legal	The council may be liable for further damage to the property should the tree be identified as the main cause of the subsidence.

RECOMMENDATION: REFUSE

The Reason(s) for refusal are:

- 1 The application and associated reports do not give enough evidence to justify that the tree is the main and pivotal factor in the subsidence of the conservatory and that the loss of amenity cannot therefore be substantiated;
 - The reports show that the foundation depth of the conservatory are far below the recommended foundation depths set out in NHBC Standard 4.2 (Building Near Trees)

- Other casual factors have not been fully investigated - notably the displaced drainage joint less than 2m away from the conservatory.
- The removal of 4No. Mature trees and 1No. Leylandii hedge from the site and adjacent sites have been shown to have no positive effect on the movement of the structure

BACKGROUND PAPERS

16/00316/REM

16/00479/TPO

