

**MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT THE
COUNCIL OFFICES, STATION ROAD, WIGSTON ON THURSDAY, 17 NOVEMBER 2016
COMMENCING AT 7.00 PM**

<u>IN ATTENDANCE:</u>		
Chair - Councillor L A Bentley Vice-Chair - Councillor Mrs L M Broadley		
COUNCILLORS (11):		
G S Atwal G A Boulter F S Broadley D M Carter	B Dave R E Fahey D A Gamble Mrs S Z Haq	J Kaufman Dr T K Khong Mrs H E Loydall
OFFICERS IN ATTENDANCE (3):		
S J Ball	T Boswell	D Gill
OTHERS IN ATTENDANCE (9):		
Cllr E R Barr Dr D A Burns Cllr M H Charlesworth	F Greaves Z Lal Mrs A Lennox	J Menna N Staddon Mrs S Wills

Min Ref.	Narrative	Officer Resp.
23.	<u>APOLOGIES FOR ABSENCE</u> An apology for absence was received from Councillor R E R Morris.	
24.	<u>APPOINTMENT OF SUBSTITUTES</u> None.	
25.	<u>DECLARATIONS OF INTEREST</u> In respect of planning application number 16/00308/FUL: (i) Councillor Mrs H E Loydall declared a non-pecuniary interest insofar as her spouse, Councillor K J Loydall, had spoken to the applicant. The Member stated that she was not privy to any discussions. In respect of planning application number 16/00175/FUL: (i) The Chair declared a non-pecuniary interest insofar as the registered speakers were known to him, in addition to a number of members of the public in attendance. He stated that he had not discussed any part of the application with them. (ii) Councillor B Dave declared a non-pecuniary interest insofar as number of residents had made representations to him. He stated that he did not express a view on the application. All Members confirmed that they attended the meeting without prejudice and with an open mind.	

26.	<p><u>MINUTES OF THE PREVIOUS MEETING HELD ON 22 SEPTEMBER 2016</u></p> <p>RESOLVED THAT:</p> <p>The minutes of the previous meeting of the Committee held on 22 September 2016 be taken as read, confirmed and signed.</p>	
27.	<p><u>PETITIONS AND DEPUTATIONS</u></p> <p>None.</p>	
28.	<p><u>REPORT OF THE PLANNING CONTROL MANAGER</u></p> <p>The Chair advised Members that the following applications were withdrawn from the consideration of this meeting of the Committee:-</p> <p>4. Application No. 16/00392/FUL - 10 Durnford Road, Wigston, Leicestershire, LE18 2RG</p> <p>5. Application No. 16/00393/FUL - 12 Durnford Road, Wigston, Leicestershire, LE18 2RG</p> <p>1. Application No. 16/00308/FUL - 55-57 Queens Drive, Wigston, Leicestershire, LE18 2DG</p> <p>The Committee gave consideration to the application (at pages 6 - 14) 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 Chair moved and the Vice-Chair seconded the application.</p> <p>Councillor G A Boulter raised a number of concerns, namely: the number of dwelling car parking spaces <i>vis-a-vis</i> any statutory requirement and the general lack of on-street parking provision to service retail units and allow for safe vehicular movements; the potential for overlooking on adjoining properties caused by the external staircase; the loss of screening onto Holmden Avenue, Wigston by the intended removal of the conifer trees; the close proximity of the bin store to residential properties; and the inconsistency of the building's design with the overall street-scene. The Member further requested brick-detailing to the proposed building's side elevation.</p> <p>The Interim Planning Control Manager advised that: there was no such statutory requirement, that the number of dwellings was equal to the number of car parking spaces and the Highways Authority expressed no concerns as to vehicle parking within/on the highway; the siting of the external staircase was within a reasonable and non-objectionable distance to adjoining properties; the conifers intended for removal were not deemed worthy of preservation, but the conditioning of a tree re-planting schedule was possible; the siting of the bin store gave effect to Building Regulations governing refuse collection vehicular manoeuvrability; and the external aesthetics of the building was to be the subject of ongoing discussions with the applicant.</p> <p>Councillor Mrs H E Loydall enquired as to: whether the external staircase was an enclosed structure with secure access; whether the application complied with any minimum dwelling-space standards; and whether</p>	

restricting prospective dwelling-occupants to park in the car park as a planning condition was achievable to mitigate any concerns about limited availability on-street parking provision. The Member disapproved of the building's corner design and requested that further discussions be had with the applicant regarding a sympathetic choice of cladding.

The Interim Planning Control Manager advised that: the external staircase was single-access located on the building's side elevation (i.e. not the main staircase); minimum dwelling-space standards no longer existed outside the Greater London area and that the eight dwellings' floor plan area of 44m² was deemed to be functional; and that such a parking restriction planning condition would be unenforceable against prospective dwelling-occupants. He stated that the choice of external materials was a reserved matter and that the discussions would be had with the applicant in respect of the cladding being complimentary to the existing brickwork and the possible inclusion of brick-detailing to the building's side elevation.

Councillor Mrs H E Loydall moved an amendment to add an additional planning condition requiring the implementation of a substantial tree re-planting schedule to mitigate against the loss of screening by the intended removal of the conifer trees.

Councillor G A Boulter seconded the motion.

UNANIMOUSLY RESOLVED THAT:

The motion be amended, accordingly.

Councillor Mrs S Z Haq enquired as to what measures could be taken to ensure the completion of the agreement pursuant to the Town and Country Planning Act 1990, section 106 ("s106 agreement").

The Legal Advisor advised that, should Members be minded to grant planning permission, that the said permission would only be granted subject to the completion of the s106 agreement under which the relevant planning triggers would be defined.

UNANIMOUSLY RESOLVED THAT:

- (i) The application be **PERMITTED** planning permission subject to conditions; and
- (ii) an additional planning condition be added requiring the implementation of a substantial tree re-planting schedule.

2. Application No. 16/00365/VAC – Brocks Hill Visitor Centre and Country Park, Washbrook Lane, Oadby, Leicestershire, LE2 5JJ

The Health and Leisure Services Manager spoke upon the application on behalf of the applicant. She stated that the application would better realise the Council's key priority of improving the health and wellbeing of its local residents and the Council's vision statement upon "inclusiveness" by providing easier access to disabled and disadvantaged residents and visitors. The application was said to also reduce the need for vehicular use to/from the site, promoting walking as a carbon-friendly alternative and the importance to consider equality in decision-making processes.

Dr D A Burns spoke upon the application as an objector. He stated that the proposed application would compromise the security of the adjoining residential properties and the Glenmere Community Primary School ("the primary school) increasing the likelihood of trespass and vandalism thereto due to increased footfall. He further raised concerns as to the potential of: noise nuisance, the irresponsible disposal of dog foul; the dangers of pedal/motorcycles use; ineffective policing provision; litter clearance and maintenance; lack of lighting provision; and effects upon local wildlife.

Councillor M H Charlesworth spoke upon the application. He noted that concerns were previously raised at a meeting in 2005 by the primary school about pupil safety if the footpath was to be opened to the general public. He stated that it was unclear if increased anti-social behaviour (ASB) would materialise. If Members were minded to grant the application planning permission, he requested that two conditions be added, namely that: (i) bins at each end of the path be installed; and (ii) a temporary permission of one-year be granted and subject to review.

The Committee gave consideration to the application (at pages 15 - 20) and the supplementary agenda update (at page 1) as delivered and summarised by the Interim Planning Control Manager which should be read together with these minutes as a composite document.

The Interim Planning Control Manager added that although it was the Council's overarching statutory responsibility to suppress crime where reasonable and practicable to do so, there was insubstantial evidence to support the proposition of increased crime and disorder should the application be granted planning permission.

The Chair moved and the Vice-Chair seconded the application.

The Chair enquired as to whether the application intended to remove any of the existing fencing and if, as a result, the security of the Primary School would be compromised.

The Interim Planning Control Manager advised that none of the existing fencing was to be removed and the school's perimeter fencing would be unaffected.

The Vice-Chair enquired as to whom, if Members were minded the grant planning permission, was to be responsible for the maintenance of the fencing and clearing of the pathway and if new lighting provision was necessary and, or, required.

The Interim Planning Control Manager advised that the Council would assume responsibility for maintenance and clearing of the same and that, although new lighting provision may be required, it was not a subject under current discussion.

Councillor B Dave said that he did not support the proposition that there would be no increase in crime and disorder should the application be granted planning permission. He further asked if bins were presently installed at the application site.

The Chair advised that the potential occurrence of anti-social behaviour was manifest throughout Borough. It was said that the new installation of standard bins (in which dog fouling could be deposited) at the application

site would serve the Borough's interests and assist to fulfil the Council's statutory duty to clear litter. He further stated that consideration of granting temporary planning permission was a viable option.

Councillor J Kaufman said that improved access to Brocks Hill Visitor Centre and Country Park was to be a valuable community asset. The Member moved an amendment to grant temporary planning permission for a period of two-years.

Councillor Mrs H E Loydall seconded the motion.

RESOLVED THAT:

The motion be amended, accordingly.

For 9
Against 3
Abstentions 1

Councillor D M Carter enquired as to the extent of liability owed to footpath users.

The Legal Advisor advised that the Council assumed responsibility and liability, so far as legally possible, from a failure(s) to properly maintain the footpath only.

Councillor Mrs H E Loydall noted the representations made by residents however emphasised the importance of a decision to be evidence-based. It was said that a temporary planning permission would allow sufficient opportunity for evidence to be adduced to either confirm or deny residents' perceived concerns about ASB.

Councillor Mrs S Z Haq asked if evidence had been provided by Leicestershire Police to substantiate residents' perceived ASB concerns

The Interim Planning Control Manager answered that insubstantial evidence had been received.

Councillor G A Boulter enquired as to whether access to the pathway could be restricted from 6:00 am until 6:00 pm. The Member further noted that a further decision was required to determine the most appropriate position for the relocated gate and the necessary permission(s) sought for the installation of bins. He further suggested that, should Members minded to approve temporary planning permission, the removal of the chain-link be sought after the two-year period. It was also noted that allowing 24-hour public access may provide the opportunity or increased ASB.

The Chair advised that restricting access would cause added logistical problems incumbent upon the Council.

The Vice-Chair raised concerns as to potential danger(s) to pedestrian safety if the chain link fencing remained in situ and the footpath remained unlit.

RESOLVED THAT:

The application be **PERMITTED** temporary planning permission for a period

of two-years subject to conditions.

For 12
Against 0
Abstentions 1

**3. Application No. 16/00366/CLP – 38 Redruth Avenue,
Wigston, Leicestershire, LE18 2JF**

The applicant, Mr Zamir Lal, spoke upon the application. Mr Lal clarified the nature of the work undertaken by Platform Childcare (PC). He further said that the reasons stated for the application's refusal - in respect of adults residing at the premises, the premises' character, traffic generation and extent of persons visiting the premises - had already been addressed in the application's supporting statement. He further noted that several other decision notices granting class C3 permission had been previously granted, namely: at the application site itself in May 2016 for use in respect of social work housing; and a similar home in the vicinity in September 2015.

Mr Neil Staddon spoke upon the application as an objector. He opined that the application's supporting statement did not provide sufficient, verifiable evidence to alleviate residents' perceived concerns in respect of: the likelihood of ASB incidences increasing; the type(s) of children and young people capable of being adequately and safely housed and supervised within a family-likened environment; safeguarding concerns in respect of victims/perpetrators' former involvement with paedophile rings etc. and the risk to local children; the suitability of PC's staff experience and qualifications; and inadequate parking provision and additional traffic generation.

Councillor M H Charlesworth spoke upon the application. He emphasised that the application clearly stated that, as no adult would be resident at the property, the proposed use could not be properly classified within class 3c. The Member noted the detrimental impact(s) such applications had on those affected children, young people and residents from, amongst others things, the recent closure of the Greengates establishment at Moat Street, Wigston by Leicestershire County Council (LCC). He further challenged the previous planning permission granted on the erroneous basis of there being no material change and permanent adult residence.

The Committee gave consideration to the application (at pages 21 - 25) as delivered and summarised by the Interim Planning Control Manager which should be read together with these minutes as a composite document.

The Chair and Legal Advisor jointly-advised the Committee that the application was not a planning application but one for a Lawful Development Certificate (LDC). It was said that this was strictly a legal determination taken on the balance of probabilities upon the information provided to Officers which, in this instance, required formal Committee resolution until such time as the Council's Constitution was amended.

Councillor J Kaufmann moved the recommendation as set out in the application (at page 24).

The Chair seconded the recommendation.

UNANIMOUSLY RESOLVED THAT:

The application be **REFUSED** a Lawful Development Certificate.

6. Application No. 16/00295/FUL – Meadow Hill, Cooks Lane, Wigston, Leicestershire, LE18 3TA

Mr Joe Menna, Land Manager at Westleigh Partnerships Ltd, spoke upon the application on behalf of the applicant. He stated that the application represented a well-designed housing scheme in-keeping with the surrounding area's character. The scheme was said to be made available through the Help to Buy programme in addition to providing 11 more affordable dwellings within the Borough. The contributions secured under a future s106 agreement was said to mitigate the impact of the development on local services, that the scheme would be a positive addition to the area's built environment and was not harmful to the wider landscape context. He confirmed that, following recent archaeological trial trenching at the application site which yielded no significant finds, LLC's archaeologists had since withdrew their objections. Mr Menna stated that an extensive Floor Risk Assessment (FRA) has been submitted in full consultation and agreement with the Environment Agency and the Local Flood Authority which confirmed that the development was not at risk of flooding nor would it increase the risk of flooding in the surrounding area(s).

Mrs Shirley Wills spoke upon the application as an objector. Mrs Wills stated that, with reference to Core Strategy Policy 9, the application did not provide any provision by way of documentation to alleviate the flooding problems known to affect the application site and the potential for "run-off" effects onto the surrounding area(s) notwithstanding the proposed mitigation measures. She further raised concerns in respect of the insubstantial load-bearing capacity of Cooks Lane, Wigston, the impact of increased traffic generation upon highway and pedestrian safety and the uncertain extent of removal of established hedgerows and trees enclosing the application site.

Mr Fenton Greaves spoke upon the application as an objector. Mr Greaves reiterated the aforementioned concerns raised, most notably in respect of the flooding risk to the application site and surrounding areas. He further enquired as to the extent of liability for damage owed by the Council from flooding if Members were to grant planning permission. He advocated development in other areas of the Borough.

Councillor M H Charlesworth spoke upon the application. He stated that the application site was located in an area according to the Oadby and Wigston Flood Response Plan that was "extremely vulnerable" to a "high probability" of flooding as acknowledged in the applicant's FRA. The Member opined that effects of climate change and the increasing unpredictability of the weather heightened the risk of flooding to the site and, or, surrounding areas. It was also said that the ditches and watercourses in the area were not maintained to a standard required in flood zones defined as 3A. He further noted the significant archaeological interest in the site.

Councillor E R Barr spoke upon the application. He reiterated the aforementioned concerns raised in respect of the flooding risk to the application site, surrounding areas and pre-existing properties sited thereupon and near to, stating that there was other areas within the Borough capable of developed that did not entertain the same known risks. The Member further noted the detrimental impact of the application on the amenity and character value of the semi-rural greenbelt enclosing Cooks

Lane. It was also said that the remaining 42 dwellings not allocated as “affordable” did not go far enough to meet the Borough’s increasing *local* need for more affordable housing.

The Committee gave consideration to the application (at pages 38 - 49) as delivered and summarised by the Interim Planning Control Manager which should be read together with these minutes as a composite document.

The Interim Planning Control Manager added that the application site was included, and was essential to meeting, the Council’s five-year land supply target. He advised that the FRA accompanying the application was sufficiently robust to effectively mitigate against, and otherwise better manage, the risk of flooding and included an additional 40% contingency factor for unpredictable rainwater levels. He also confirmed that following the results of the additional archaeological survey work, LCC’s Archaeological Services had withdrawn their representations.

The Interim Planning Control Manager further cited three additional conclusions for potential inclusion should Members be minded to grant planning permission.

The Chair moved and Councillor D M Carter seconded the application, subject to an amendment to add the foregoing conditions as cited, namely:

(1) No demolition/development shall take place/commence until a programme of archaeological work (comprising archaeological topographic survey of the Ridge and Furrow, to include analysis of available LiDAR data) has been detailed within a Written Scheme of Investigation, submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

- The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme)*
- The programme for post-investigation assessment*
- Provision to be made for analysis of the site investigation and recording*
- Provision to be made for publication and dissemination of the analysis and records of the site investigation*
- Provision to be made for archive deposition of the analysis and records of the site investigation*
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.*

(2) No demolition/development shall take place other than in accordance with the Written Schemes of Investigation approved under condition (1).

(3) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (1) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: To ensure satisfactory archaeological investigation and recording.

Councillor B Dave raised a number of concerns, namely: the increase in traffic generation, without attenuation measures, stating that the accompanying Transport Statement ought to have assessed the impact of traffic flow(s) beyond Welford Road, Wigston; and, with reference to condition 12, that a flood prevention scheme ought to be submitted and approved before a decision is taken by the Committee, and that Members should have an opportunity to appraise such plans and reports submitted.

The Interim Planning Control Manager advised that all plans and reports in relation to the flood prevention scheme were to be carefully scrutinised by the appropriate authorities and that the necessary enforcement action was available to the planning authority should the applicant not comply with condition 12 prior to development.

The Chair advised that it was not the proper function of the Committee to micromanage Officers in relation to planning conditions as determined by the expert authorities and that Members were not qualified to appraise such reports and plans.

The Chair and Legal Advisor jointly-advised that, if Members were minded to refuse planning permission by disregarding expert advice, there was a substantial risk of the Council being unsuccessful upon any prospective appeal whereby the Council would bear a cost implication and lose its ability to impose conditions. It was said that if the Committee consistently chose to disregard expert advice, the planning authority could be placed into special measures with all applications determined directly by the Planning Inspectorate.

Councillor G A Boulter reiterated the concerns in respect of the known flooding risk to the application site and surrounding areas, however acknowledged that local knowledge could not be properly used to inform the decision-making process and that the Committee must defer the expertise of the appropriate authorities.

Councillor Mrs S Z Haq enquired as to who was responsible for ensuring compliance with the planning conditions and the extent of liability for damage owed by the Council from flooding.

The Interim Planning Control Manager advised that responsibility would be assumed by the developer and contractor, with the conditions attached to the application site, and that the Council would have no liability if it could be proved that the planning process had been properly administered. It was said this could be proven.

Councillor R E Fahey questioned the reliability of the Council's housing supply arrangements insofar as its associated plans had been drafted some 30 years prior (c. 1990) which may not have a complete understanding of the flooding risks.

The Interim Planning Control Manager advised that the plans undertaken in the 1990's included a comprehensive strategic flood risk assessment. He stated that development on floodplains was a common occurrence and that measures to protect against flooding on such sites had since significantly improved thus reducing the risk thereof and the wider-felt implications of any down-stream impact.

Councillor Mrs H E Loydall stated that there were no material planning

	<p>grounds upon which the Committee could properly refuse planning permission and reiterated the significant legal consequences faced should Members resolve the same.</p> <p>RESOLVED THAT:</p> <p>The application be PERMITTED planning permission subject to conditions.</p> <p>For 8 Against 4 Abstentions 1</p>	
--	--	--

THE MEETING CLOSED AT 9.40 PM



.....

CHAIR

.....

THURSDAY, 19 JANUARY 2017

.....