

<b>Application Number</b>	<b>Address</b>
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**Report Items**

1. 16/00377/COU      1 Ladysmith Road  
Wigston  
Leicestershire  
LE18 4UZ
  
2. 16/00552/FUL      87 Welford Road  
Wigston  
Leicestershire  
LE18 3SP

1.	16/00377/COU	1 Ladysmith Road Wigston Leicestershire LE18 4UZ
	19 September 2016	Proposed change of use from existing offices to nursery that will accommodate up to 26 children.
	CASE OFFICER	Tony Boswell



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## **Site and Location**

The application site is the former MOD Defence Estate Office which is accessed from Saffron Road via a local network of private roads. Constructed in brick and tile with a covered veranda on its eastern side, it has the appearance of a post-war military "Guard House". The building, which is single storey and detached with a hipped roof, appears to have last been lawfully used as a dwellinghouse at some point in the past. The property has stood empty for some while, having been more recently used without planning permission for the intensive cultivation of herbal species.

The site includes a large grassed area in front of the building, which supports a variety of trees the subject of a Tree Preservation Order.

The surrounding area is predominantly residential, with a mix of former MOD houses now in private ownership and occupation. Also near adjacent within the former MOD site and accessed from Ladysmith Road is the Salvation Army Centre which hosts a church, cafe, community and conference centre complex. This hosts a number of community uses including "Little Conkers" for under fives and other community groups.

## **Description of proposal**

The application proposes the change of use of the building and grassed area to a children's day nursery. This would cater for up to 26 children at any time. Incidental to the use would be the provision of 2m high steel mesh fencing to enclose part of the grassed and tree'd area to the front of the site and the provision of a three car drop off bay along the Ladysmith Road frontage.

The statutory determination period for this application has expired and an extension of time will be sought to enable the decision to be formalised. It is intended to issue a decision as soon as practicably possible after the committee meeting.

## **Relevant Planning History**

10/00346/FUL - Conversion of existing building into a bungalow with external alterations to include solar panels, increase in roof height, associated parking space & boundary treatment – APPROVED. (Note however that this permission was not implemented and has now expired).

## **Consultations**

Leicestershire County Council (Highways) – Raise no objection to the proposal

OWBC Environmental Health – raises concern about noise nuisance from children playing in outdoor area which is in proximity to local residential properties.

OWBC Forward Plans - site is not located within either a locally designated Identified Employment Area or a Conservation Area. However, the Case Officer should be satisfied that the proposal conforms to Employment Proposal 10 in the Saved Local Plan.

The Council would not encourage the provision of D1 uses outside of designated town centre, district centre or local centre locations and therefore we would request that the applicant undertakes a sequential test to ascertain whether there are any other alternative premises available in more suitable locations.

It is apparent that the proposal is seeking the removal of a number of protected trees and therefore, it is recommended that the Case Officer liaises with the Council's Arboricultural Officer regarding this matter.

If the Case Officer is minded to permit the application, in order to ensure that the unit is used for appropriate D1 uses only, the Case Officer should include a condition stating that the only suitable use under this permission for the building would be for the proposed nursery, under use class D1.

## **Representations**

Neighbours have been informed and a notice placed with 14 letters of representation being received at the time of writing this report.

The reasons for objection can be summarised as follows: -

Traffic generation - no of vehicles, narrowness of roads, business of Saffron Road  
Insufficient on site parking causing roadside parking on private road  
Traffic generation would result in parking on frontagers' land  
Parking spaces on corner contrary to road safety

Visual amenity - fence out of character and overbearing  
Wire fencing would be unsightly and out of keeping with open plan estate  
Fencing would not maintain open space  
Loss of open views-effect on residential amenity  
Protected trees

There is adequate provision of nursery spaces in the locality already;  
Inadequate provision for bin storage  
HGVs waste and catering vehicles - no loading areas  
Errors in application - number of drop off points, hours of use  
Questions the low number of staff proposed

Existing use is dwellinghouse - loss of dwelling without justification is contrary to policy  
Residential would be a better use

Noise of children playing outdoors  
Opening hours to 05.30 antisocial  
Opening hours unrealistic  
Out of character with residential estate  
Use out of character in residential area

Proposed use would be in breach of covenant  
Means of Sewage disposal not stated – estate is on private drainage which would be inadequate for intensity of proposed use  
Street lighting privately maintained  
Use of open space for which she contributes  
Property ownership runs to kerb edge - trespass and damage  
Misuse of private services, roads, drainage  
Private covenants in respect of fences, businesses, parking

## **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

Conservation Areas Supplementary Planning Document

South Wigston Conservation Area Appraisal

## **Planning Considerations**

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

- The principle of such a Use Class D1 use in this location.

**Development Control Committee Meeting**  
**16 March 2017**

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

#### The principle of such a Use Class D1 use in this location

Ordinarily a use such as that proposed would require justification by undertaking a “sequential test” – to demonstrate that no more suitable locations were available in more central and so widely accessible locations. However, in view of the relatively small scale of the proposed use; the presence of quite comparable community uses within the near adjacent Salvation Army Centre, and the fact that the building might otherwise remain vacant and unused, such a sequential test has not been insisted upon in this case. A sequential test should be applied for proposed “main town centre uses” (NPPF paragraph 24). Such small scale children’s nurseries are arguably not such a use.

It may be the case that the development might conflict with local covenants regarding the use of the overwhelmingly private roads, drainage facilities and fencing in the local area. Such covenants cannot be a material planning consideration – albeit that their existence might possibly prevent the development from taking place if enforced by the beneficiaries of such covenants?

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

As an application simply for the proposed change of use, the implications for the appearance of the street scene are minor. An area adjacent to the existing building on the frontage from Hindoostan Avenue is available to park 3 cars – which would marginally alter the existing vacant and “semi-derelict” appearance of the building. Also adjacent to the Hindoostan frontage would be a short length of extended footway connecting with the entrance to the building, to better enable “drop off” by parents. The proposed mesh fencing (necessary for the security of children) might well be visually objectionable, but the design and appearance of fencing could be controlled by condition and so rendered acceptable as recommended below.

No protected or other trees would necessarily be removed under this proposal. Any future proposals to do so would require a separate Consent, and might almost certainly require the provision of a replacement tree.

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

The immediate locality – the former MoD estate is a notably quiet residential enclave, consisting of fairly low density homes and gardens and, only five homes are in visual proximity. The impacts of the proposed use are likely to be twofold consisting of noise from children playing externally. This would probably vary over time due to season and weather. In the presence of good management and supervision, this will not be substantially different from children playing in nearby gardens, and hence is very difficult to regard as objectionable.

The second impact is any degree of noise and disturbance when children are being delivered to, or collected from the premises. The applicant’s proposed hours of operation are 08:30am to 17.30pm (note that the recommended condition below restricts overall hours to 08:00 to 18:00). Visits by car would therefore be spread throughout the working day, presumably with an emphasis at the beginning and the end of the working day. Note that there are some 75 homes within the Namur Road to Crete Avenue area as a whole and, assuming that all children arrive and depart by car, the proposed use at full capacity might add around one third to overall traffic movements within the local area as a whole.

Also note that there is little or no accommodation for the parking of visitor’s cars within the application site, although on-street parking is entirely lawful (subject to compliance with any private covenants relating to use of the private roads concerned). Given the relatively quiet nature of the surroundings such a level of traffic generation would be quite noticeable in close proximity to the premises. However, and in absolute terms, once again it would be hard to regard such traffic as objectionable. In road safety terms the cumulative impacts of the proposal, in addition to existing traffic levels, would be well short of “severe” (NPPF paragraph 32).

## Conclusion

As a community use the proposed use is in principle quite supportable subject to any adverse impacts being either minor or capable of being effectively mitigated by compliance with the conditions recommended below.

There are evidently private covenants relating to use of the local private roads, drainage and retention of local green spaces. If enforced by beneficiaries of those covenants, these may hamper or prevent implementation of the planning permission recommended. That possibility is not a material planning consideration.

## 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):

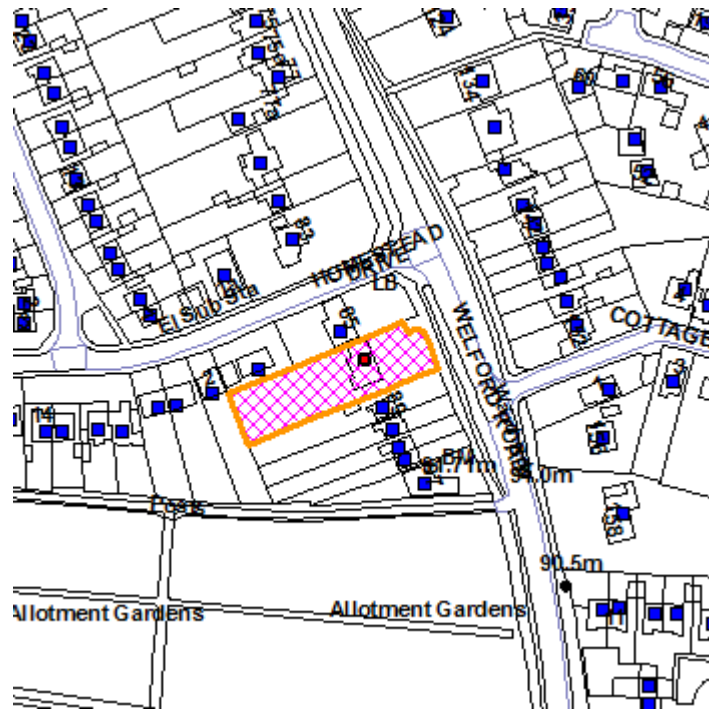
- The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
**Reason:** To conform with Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or the provision of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) or any orders revoking and re-enacting those Orders, this permission shall relate to the use of the premises as a childrens nursery as described in your application and for no other purpose.  
**Reason:** To ensure any future use of the premises does not adversely affect the amenities of the locality in accordance with Oadby & Wigston BC policy
- The use hereby permitted shall not commence any earlier than 08:00 and shall cease no later than 18:00, and shall not take place on any Sunday or Bank Holiday, without the prior permission of the Local Planning Authority following the submission of a planning application for that purpose.  
**Reason:** To safeguard the amenities of nearby and adjacent homes and gardens.
- Notwithstanding the details submitted as part of the planning application, the use hereby permitted shall not be commenced until further details of a visually acceptable perimeter security fence have been submitted to and approved in writing by the Local Planning Authority following a planning application submitted for that purpose.  
**Reason:** To safeguard the visual amenities of the area, and as an alternative to the "mesh fencing" as proposed.

- 5 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.

Note(s) to Applicant:

- 1 For the avoidance of doubt this permission relates to the following plans and particulars:-  
Drawings showing the following particulars;  
    Sheet 2 Existing and proposed Floor Plans (undated)  
    Sheet 2 Proposed elevations (undated)  
    Boundary mesh fencing detail (undated)
- 2 The Application as submitted was considered to be acceptable and therefore discussion with the applicant to seek an acceptable solution was not considered necessary in making this decision. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 3 The applicant and owners should note that any works to protected trees within or adjacent to the application site should only proceed after consent is granted to those works by the Local Planning Authority.

2.	16/00552/FUL	87 Welford Road Wigston Leicestershire LE18 3SP
	6 December 2016	Detached sun room.
	CASE OFFICER	Peter McEvoy



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## Site and Location

The applicant's property is on the southern outskirts of Wigston. The area is predominantly residential with many detached properties set within generous sized plots. The applicant secured planning permission in 2016 to demolish the original dwelling, a bungalow, and replace it with a much bigger and imposing dwellinghouse. This building is nearing completion, but as such, remains unoccupied for the moment.

## Description of proposal

The applicant is requesting planning permission for a large sun room situated at the bottom of his rear garden and close to the rear and side boundaries.

The building would be built to a north to south orientation. It would be a single storey with a pitched roof containing two small roof lights and with a short gable front offshoot which would project 1.125m from the rest of the front elevation. Based on the submitted plans, the building's height to eaves would be 2.250m and the ridge height would be 4.000m. The length would be 13.050m with a width of 7.200m increasing to 8.325m for the gable's side elevation. There would be an entrance door and window along the front elevation with a set of folding doors along the front gable elevation.

The statutory determination period for this application expires on the 24 February 2016 and the LPA intends to issue a decision as soon as practicably possible after the committee meeting.

## Relevant Planning History

- 15/00535/FUL Demolition of existing bungalow and erection of a new detached two and a half storey dwelling (approved 2 February 2016).
- 16/00301/CLP Detached sun room in rear garden (refused 10 August 2016).

## Consultations

Leicestershire County Council (Local Highways Authority) – no comments.

Oadby and Wigston Borough Council (Arboricultural Officer) – no comments.

## Representations

The Council notified neighbours and put up site notice on 30 December 2016 with a deadline for representations by 20 January 2017. The Council has received two letters of representation (from two properties) at the time this report was prepared, both of which expressed concerns or objections about the proposal.

The reasons for objection can be summarised as follows:

- the proposal would be a large structure, close to her boundary, which would be used for large functions resulting in a large number of cars to be moved about and parked right alongside the length of the rear of her property;
- potential loss of trees;
- a smaller sun room and sited more centrally between the adjoining properties would be more appropriate.

and:

- the proposed sun room is of a similar size to my own property which is a substantial four bedroom property. Therefore my opinion is that this may be applied for as a sunroom but will, once built be soon applied as a 'change of use' into a separate dwelling.
- the proposed building is substantially in excess of the floor area of a sun lounge to be used in conjunction with the main dwelling.
- the height is also unacceptable as it will create issues of overlooking and intrusion to the adjoining properties. This imposition is, in relation to the adjoining properties un-neighbourly and frankly the proposal, if approved creates an unacceptable precedent in the area for back land developments or a form of tandem layouts.

- with the excessive size of the main property for the plot of land and the close proximity of the neighbouring properties it will in the least be cramped and more like a city centre development.
- the sun room seems to be in excess of 8m of the rear of the main dwelling and falls out of the permitted distance within regulations governing permitted development for conservatories.

## **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:

- whether the principle of this particular development is acceptable in planning terms; *and*
- the impact on visual and residential amenity.

### Principle of development

Both national and local planning policies are generally in favour of ancillary structures, such as sun rooms, in rear gardens; however the LPA notes that the following characteristics of the site:

- the host dwelling has not been built equidistant between the two neighbouring properties, but rather it has been constructed much closer to the common boundary with the property to the north (number 85). This position has created a gap of approximately 3.5m between the host dwelling's southern elevation and the boundary with the property to the south (number 87), based on a distance scaled from the submitted location plan.
- the LPA estimates that proposal's floor area is around 102m<sup>2</sup> which is sufficient for a separate domestic dwelling;
- the proposal's general appearance is one of a domestic dwelling, rather than a sun room;
- the width of the main dwelling, which in itself is a substantial building, and the sunroom are broadly the same.

Based on these factors, the LPA believes that a subsequent owner of 87 Welford Road could readily convert the sunroom into a separate habitable dwelling involving minimal work to the external features. There is a sufficient distance between the applicant's property and the southern boundary to easily construct an driveway to enable a separate vehicular access to the building. The plot size is generous enough to provide car parking and to allow the subdivision of the rear garden into two discrete areas. The ultimate effect would be effectively a back-land development and a divided plot which would be contrary to the vicinity's landscape characteristics of single buildings enjoying a very generous, though narrow, landscaped rear garden. For this reason, providing the application is otherwise acceptable (see below), a suitable occupancy condition is considered to be necessary to allow the applicant to be able to develop his property, whilst at the same time, protecting the site from future subdivision.

### Visual amenity

The applicant states on his application form that the proposed materials would be similar to those found on the existing house. The proposal's style would be broadly in keeping with the main dwelling

which would also effectively screen the proposal from the front street scene. The development could be accommodated within the existing curtilage, despite its large scale and mass.

### Residential amenity

The applicant has chosen to locate the sunroom as far away from his dwelling as possible and the building extends to a large proportion of the plot's width. These two factors ensure that the proposal would be close to the boundaries of the neighbouring properties. Some visual dominance is inevitable for these neighbours. The proposal would also cast shade for a large proportion of the day across the rear elevations of the properties along the southern side of Homestead Drive. Despite the proposal's size, it would still be a single storey and so the impact on dominance and shadowing is not considered to be materially significant enough to be able to justify refusal. All windows and doors would face directly into the applicant's rear garden with blank walls along the northern, eastern and southern elevations. Based on this design feature and the generous plot sizes, no privacy concerns are expected for these neighbours.

Although the LPA does not adopt an unduly prescriptive manner towards developments, the proposed structure's size and mass is large for the stated use. Consequently, this may have implications for the amenity of neighbouring occupiers. A restriction removing permitted development rights is recommended to protect their amenity.

### **Consultees' comments:**

In relation to the points made in the letters of representation:

- *size consummate to my own property which is a substantial four bedroom house:* the LPA does not have access to the size of the consultees' property and therefore cannot comment specifically on this point. Their concerns regarding the sunroom's dimensions are noted and have been addressed in the report;
- *potential for the sunroom to be used as a separate dwelling:* this has been addressed in the report and may be controlled by the appropriate planning conditions;
- *size:* this has been addressed in the report;
- *overlooking and intrusion:* this has been addressed in the report, although the net impact would be limited as the sunroom would be single storey;
- *create an unacceptable precedent:* each planning application must be decided on its own merits and a particular decision does not create a precedent for future applications;
- *'crammed in':* the development's close proximity to the plot boundaries has been addressed in the report;
- *loss of trees:* the applicant is permitted to remove non protected trees on her property; only those subject to a tree protection order require permission from the Council for removal.
- *does not comply with permitted development regulations:* the application to be decided is a full planning application, and is therefore does not need to meet the requirements of the General Permitted Development Order 2015 (as amended).
- *sunroom users' cars:* the local highways authority have not raised any concerns. Excessive noise or nuisance can be dealt with by the Council's environmental health department.
- *a smaller building and more centrally sited would be preferable:* this is not an objection per se, but rather a suggestion to make the development more acceptable to the neighbour.

### **Conclusion**

On balance the proposal is in accordance with the LPA's policies on visual and residential amenity, subject to an appropriate condition limiting occupancy and redevelopment and so it is an acceptable form of development.

## 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 All external materials used in the development shall match those of the existing main dwelling in colour, size, coursing and texture unless otherwise first agreed in writing with the Local Planning Authority.  
**Reason:** To safeguard the character and appearance of the building and its surroundings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 3 The proposed extension shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 87 Welford Road and not at any time as separate living accommodation..  
**Reason:** To ensure that the proposed development is compatible with existing development in the locality and in accordance with Core Strategy Policy 14 and Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 4 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 Notwithstanding the provisions of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revoking and re-enacting that Order, the dwelling hereby permitted shall not be altered or extended (including any alterations to its roof), no new windows shall be inserted, no hardsurfacing be installed, no satellite dishes shall be affixed to the dwelling, no chimneys, flue or vent pipes shall be installed and no buildings or structures shall be erected within the curtilage of the dwelling unless planning permission has first been granted by the Local Planning Authority.  
**Reason:** To safeguard the character and appearance of the building and its surroundings and in the interests of residential amenity in accordance with the aims and objectives of the

Note(s) to Applicant:

- 1 For the avoidance of doubt this permission relates to the following plans and particulars prepared by The Drawing Room (Architects) Limited and received by the local planning authority on 5 December 2016.
  - proposed plans and elevations (drawing number 2220-12-A2, dated June 2016)
- 2 You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section.
- 3 If the proposal involves the carrying out of building work along or close to the boundary, you are advised that under the Party Wall Etc. Act 1996 you have a duty to give notice to the adjoining owner of your intentions before commencing this work.
- 4 For the avoidance of doubt this permission does not authorise any development outside the application site including any foundation, footings, fascias, eaves, soffits, verges or guttering.
- 5 You are advised that any amendments to the approved plans will require either a Non-Material amendment application, a Minor Material Amendment application or a new planning application. If this is the case then you should allow at least 8 weeks before the intended start date to gain approval for such amendments. Further advice can be obtained by contacting the Planning Section of the Council on any amendments (internal or external).
- 6 The Application as submitted was considered to be acceptable and therefore discussion with the applicant to seek an acceptable solution was not considered necessary in making this decision. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 7 This permission requires you to submit further details to the Local Planning Authority on the proposal prior to the commencement of works on site. There is a fee payable to the Local Planning Authority when a request is made for the discharge of one or more conditions on the same permission or for confirmation of compliance with a condition or conditions. At the time of writing, the fee is payable per written request to discharge conditions not per condition and therefore any number of conditions may be included on a single request. The fee for such a request associated with this permission (at the time of this decision notice) is £28. The fee must be paid when the request is made. The Local Planning Authority has a statutory period of 8 weeks for the determination of such requests.

BACKGROUND PAPERS

16/00377/COU

16/00395/FUL

16/00552/FUL