

**MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT THE
COUNCIL OFFICES, STATION ROAD, WIGSTON ON THURSDAY, 16 MARCH 2017
COMMENCING AT 7.00 PM**

<u>IN ATTENDANCE:</u>		
Chair - Councillor L A Bentley Vice-Chair - Councillor Mrs L M Broadley		
COUNCILLORS (9):		
G A Boulter F S Broadley D M Carter	R E Fahey D A Gamble Mrs S Z Haq	J Kaufman Dr T K Khong Mrs H E Loydall
OFFICERS IN ATTENDANCE (6):		
S J Ball T Boswell	D Gill Ms S Lane	R Redford S Robshaw
OTHERS IN ATTENDANCE (4):		
Mrs S Bolton S New	Ms R Rahman Mrs C Sutton	

Min Ref.	Narrative	Officer Resp.
44.	<u>APOLOGIES FOR ABSENCE</u> An apology for absence was received from Councillor R E R Morris.	
45.	<u>APPOINTMENT OF SUBSTITUTES</u> None.	
46.	<u>DECLARATIONS OF INTEREST</u> In respect of planning application number 16/00552/FUL, the Chair declared a non-pecuniary interest insofar he had been contacted by an objector regarding the same. In respect of report containing exempt information (at pages 22 – 23), the Chair declared a non-pecuniary interest insofar he had been approached by a third-party in relation to the exempt subject-matter(s) of the same report. In respect of planning application number 16/00377/COU, the Vice-Chair declared a non-pecuniary interest insofar that she had been contacted by a resident regarding the same. The Chair and Vice-Chair confirmed that they attended the meeting without prejudice and with an open-mind.	
47.	<u>MINUTES OF THE PREVIOUS MEETING HELD ON 19 JANUARY 2017</u> RESOLVED THAT: The minutes of the previous meeting of the Committee held on 19 January	

	2017 be taken as read, confirmed and signed.	
48.	<u>PETITIONS AND DEPUTATIONS</u> None.	
49.	<p><u>REPORT OF THE PLANNING CONTROL TEAM LEADER</u></p> <p>1. Application No. 16/00377/COU – 1 Ladysmith Road, Wigston, Leicestershire, LE18 4UZ</p> <p>Ms Roopa Rahman spoke upon the application on behalf of the applicant.</p> <p>Ms Rahman stated that residents' traffic management and volume concerns were to be mitigated by a pick-up and drop-off mini-bus nursery service. It was said that the application had flexibility in terms of drop-off points located at the main entrance to the building and its front walkway and garden area(s) and a contingency plan to expand existing car parking capacity was envisaged. A spatial limit of 26 children in accordance with Office for Standards in Education, Children's Services and Skills (OFSTED) regulations and planned control measures were also said to mitigate any excessive traffic movements. The proposed perimeter fencing of the application site was said to be a security measure to ensure the children's safety and would not obstruct views to/from the (unadopted) highway.</p> <p>Ms Rahman stated that the application would bring the existing derelict building back into use and enhance the character of the local area by virtue of the installation of CCTV acting as a deterrent to delinquent activity. It was said that it was unlikely that the application would impact on the private sewer/drainage system due to the limit of children across different age ranges meaning most would be in nappies/pull-ups and that further guidance would be sought, if necessary, to accommodate an advised capacity. It was said that the application would not entertain the same high volumes of human traffic seen in neighbouring establishments and would have no discernible effect. Ms Rahman stated that the intended childcare establishment was to provide a nurturing home-from-home environment for children within the community.</p> <p>Councillor Mrs H E Loydall sought clarification from the speaker as to:</p> <p>(a) how many members of childcare staff were to be employed; and (b) how many parking spaces were to be provided.</p> <p>Ms Rahman advised that:</p> <p>(a) in accordance with OFSTED regulations and upon the assumption of not fulfilling or exceeding the spatial limit of 26 children, a minimum of between 2 and 4 members of childcare staff were to be employed; and (b) four parking spaces and 4 drop-off points were to be provided.</p> <p>Mr Simon New, managing agent at Preim Ltd, spoke upon the application on behalf of the 59 shareholders/ properties incorporated as the South Wigston Residents Company Ltd (SWRC) - the management company responsible for the road infrastructure, lights and maintenance of communal land in the immediate unadopted estate encompassing the application site - as an objector.</p>	

Mr New stated that the estate had an existing inadequate, multiple-parking provision for properties sited thereon and that the parking provision of three parking spaces envisaged by the proposed childcare establishment was insufficient to accommodate all the operational and personnel requirements of the same. It was said that all existing parking spaces on the estate were privately-assigned to individual properties and could not be made available for use. He raised concerns as to increased traffic and pedestrian activity insofar as: the unadopted roads, grass verges and kerbs were old, narrow and not designed for heavy and sustained usage and footfall; and the impact befallen upon shareholders' monthly service-charge contributions towards the increased maintenance costs to account for the additional usage and footfall.

Mrs Caroline Sutton spoke upon the application on behalf the residents who lived in the immediate unadopted estate encompassing the application site as an objector.

Mrs Sutton raised concerns as to increased traffic and pedestrian activity insofar as the: unadopted roads within the estate were unsuitable to accommodate an influx of traffic destined to and from the proposed childcare establishment; and impact befallen upon shareholders' monthly service-charge contributions towards the increased associated maintenance costs thereof. The impact was also said to extend to the privately-maintained sewage/drainage system if misused by the business.

Mrs Sutton stated that the proposed change of use would have a detrimental impact on the amenity of area and residents in as much as:

- (a) it was unacceptable for a business to operate from within a private residential estate with a unique, local, green fringe-character;
- (b) the trees within the estate provided substantial visual amenity to residents and were protected Tree Preservation Orders (TPO's) and should not be compromised.;
- (c) the generation of noise pollution from higher volumes of traffic and from children playing and childcare members of staff from the proposed establishment; and
- (d) the proposed fencing would not respect local covenants applicable to the area.

Mrs Sutton contended that the number of members of childcare staff *vis-a-vis* the maximum number of children did not adhere to OFSTED regulations, that there was no safe place for a fire assembly point or permissible refuse storage area.

With reference to Paragraph 23 of the National Planning Policy Framework (NPPF) Policy 16 of the adopted Oadby and Wigston Core Strategy (OWCS), Mrs Sutton stated that there was adequate childcare provision within the local area and that a sequential test to ascertain other alternative premises available in more suitable locations ought to have been undertaken.

Mrs Sutton stated that none of the impacts raised in the report (at pages 9 - 14) were impliedly minor nor could the conditions properly mitigate the same. She opined that the true number of resident's objecting did not accurately feature in the report.

The Committee gave consideration to the application (at pages 9 - 14) and

the supplementary agenda update (at pages 1 - 2) as delivered and summarised by the Senior Planning Control Officer which should be read together with these minutes as a composite document.

The Senior Planning Control Officer added that within the preceding 48 hours of the meeting, three additional calls of objection were received increasing the total number of objectors to 30. He stated that no additional points were raised (as were already summarised at page 11) save for one concern in respect of pedestrian safety as a result of the narrow carriageways along Ladysmith Road, Wigston. The Officer advised that, if due care and attention was exercised by drivers, the concern should not materialise. An amendment to relevant TPO to avoid a threat to the long-term future of some of the relevant preserved trees was said to be possible and that an alternative design or specification of fence could be secured by way of condition. It was said the proposed use assumed at full capacity (of 26 children) might add around one third to overall traffic movements within the local area as a whole.

It was moved by the Chair (the Proposer) and seconded by Councillor Mrs H E Loydall (the Seconder) that the application be granted planning permission.

The Proposer and Seconder noted that the moving and seconding of the application for grant in accordance with the recommendation (at page 13) was formally required to move the application to the debate and that by doing so did not fetter their discretion to vote for the motion or against the motion or to abstain from voting.

The Vice-Chair stated that estate immediately surrounding the application site was one of strong local, rural-fringe character characterised by narrow privately-maintained carriageways. She said that there was adequate Use Class D1 childcare provision within the local designated centre area and that a sequential test to ought to have been undertaken. She opined that the number of members of childcare staff *vis-a-vis* the maximum number of children did not adhere to OFSTED regulation and that there was insufficient parking provision to effectively accommodate the needs of the proposed childcare establishment. To amend or otherwise amend any TPO was said to be inconsistent the Borough Council's adopted Policies and Corporate Priorities. She said that the breach of any local covenants would engender various implications.

The Vice-Chair enquired as to:

- (a) where all members of staff (viz. childcare staff) were to park;
- (b) if the application entertained the possibility of trees being felled; and
- (c) if any air quality implications would arise from increased traffic generation.

The Senior Planning Control Officer advised, accordingly:

- (a) three single-parking spaces were located adjacent to the building with three, additional spaces to be constructed as a short-term drop-off/pick-up point;
- (b) no protected or other trees would necessarily be felled under this proposal, save for the relocation of a single ash tree (subject to a separate application); and
- (c) there were no significant air quality implications.

The Legal Advisor advised that any local covenants were private-law matters and therefore should be disregarded by Members as a material planning consideration.

Councillor F S Broadley commended the local distinctiveness of the area which he described as being part of the Borough's heritage and being worthy of protection.

Councillor G A Boulter stated that the application detrimentally altered the emphasis of the area by introduced a commercial operation to a wholly private, leafy residential estate and that any alternative design or specification of fence would erode the visual amenity of the open-area. He reiterated earlier Members' and speakers' concerns in respect of increased traffic generation and insufficient parking provision and its impact on pedestrian safety, adding that: the same could not be effectively mitigated by a proposed mini-bus service; and grand/parents etc. may be expected to escort children to and settle children into the nursery environment thus necessitating longer stay-times. He said that the management of risks associated with the play area were to pose a threat to the long-term future of some of the relevant preserved trees due to potential branch fall, compaction of roots and other causes.

Councillor Mrs H E Loydall reiterated earlier Members' and speakers' concerns in respect of the need for a sequential test, the management of risk associated with the play area *vis-a-vis* the long-term future of the relevant preserved trees, increased traffic generation, insufficient parking provision and its impact on pedestrian safety, further noting: the impracticality and inadequacy of any proposed mini-bus service due to the young age of the children concerned; and the unrealistic expectation upon grand/parents etc. to use the designated drop-off/pick-up area due its marked and relative distance away from the building's main entrance. She further noted the impacts upon the areas amenity and the generation of noise pollution and nuisance.

Councillor Mrs S Z Haq agreed with Members' and speakers' aforesaid concerns.

Councillor D M Carter agreed with the sentiments of Councillor F S Broadley.

The Member further enquired as to whether:

- (a) the area enjoyed any formal character assessment and, or, recognition; and
- (b) there was any planning guidance in respect of requisite parking provision for Use Class D analogous to Use Class A.

The Senior Planning Control Officer advised, accordingly:

- (a) the area did not enjoy a designated Conversation Area or similar status but was acknowledged as an one of strong local character and local distinctiveness; and
- (b) no such analogous planning guidance was available.

UNANIMOUSLY DEFEATED THAT:

The application be granted planning permission.

The Legal Advisor advised Members that, if they were minded to refuse planning permission, that substantive and material reason(s) for the refusal be given.

It was moved by Councillor F S Broadley (the Proposer) and seconded by Councillor G A Boulter (the Secunder) that the application be refused planning permission.

The reason(s) for the refusal were given as follows:

1. The area surrounding the application was one of strong local character and local distinctiveness due to its origins as a Ministry of Defence (MoD) designed and built residential estate. In particular, but not exclusively, this was characterised by narrow privately maintained carriageways, verges and high quality and mature landscaping.
2. Having had regard to that local distinctiveness, the Proposer and Secunder objected to the proposed reuse of the existing storage building as a childrens' nursery for the following reasons:
 - (a) As a use within Use Class D1 outside any nearby town centre, the proposed use was not justified by any persuasive sequential test;
 - (b) The proposed arrangements for the reception and collection of children attending the premises were impractical and inadequate. At peak times, this inadequacy would encourage drivers to park on nearby verges causing damage and visual harm. (Noting that the carriageways and landscaping were privately maintained at cost to local residents);
 - (c) The proposals did not include adequate day-long operational car parking provision for employees at the premises with similar effects to (b) above.
 - (d) The entirety of the application site was the subject of multiple Tree Preservation Orders, including the proposed external play area. The management of risks associated with that play area were to pose a threat to the long-term future of some of the relevant preserved trees due to potential branch fall, compaction of roots or other causes.
 - (e) The proposed 2 metre high wire mesh security fence would erode the visual amenity of the open area concerned and that defect could not be mitigated by the use of an alternative design or specification of fence.
3. The proposal would therefore be contrary to paragraphs 24, 60, 64 and 118 (in particular) of the National Planning Policy Framework, and Policy 16 of the adopted Oadby and Wigston Core Strategy.

UNANIMOUSLY RESOLVED THAT:

The application be **REFUSED** planning permission for the reason(s) aforementioned.

2. **Application No. 16/00552/FUL – 87 Welford Road, Wigston, Leicestershire, LE18 3SP**

Mrs Sheila Bolton spoke upon the application as an objector.

Mrs Bolton stated that her property was situated 2.7 metres from the rear-side boundary of the application site, with the proposed sunroom situated a further 2.7 metres adjacent from the same. It was said that the proposed sunroom would cause a considerable loss of light to her property due to its close proximity. She opined that, given the relatively large size of the proposed sunroom, that it may be used for other non/residential purpose(s) (i.e. large functions) for which a change of use application would otherwise be required and, or, potentially granted in the future for use (Class A) as a separate-dwelling: this was said to potentially result in larger numbers of vehicles being able to manoeuvre and park alongside the length of the rear of her property causing disturbance, noise and air pollution and limiting the amenity value of her garden. She further raised a concern in respect of the potential loss of trees.

The Committee gave consideration to the application (at pages 15 - 21) as delivered and summarised by the Planning Control Team Leader which should be read together with these minutes as a composite document.

The Planning Control Team Leader added that the application site did enjoy a substantial access way/area to the side and rear of the main dwelling-house which would allow vehicular access irrespective of the application *per se*. He further advised Members of a number of successful appeals of planning decisions where planning authorities had refused planning permission having made reference to alternative uses for which planning permission would otherwise be required. It was said that any subsequent change of use application was to be considered on its own merits and at the appropriate time.

It was moved by the Chair and seconded by the Vice-Chair that the application be granted planning permission.

Councillor Mrs H E Loydall questioned the description of the application for a sunroom given its poor directional siting, specification and functionality to maximise the capture of sunlight. She stated that a re-siting of the sunroom by 90 degrees and adjacent to the application site's rear garden boundary would better allow for the same and to mitigate issues of overlooking onto and intrusion of adjoining properties. She requested that a discussion with the applicant be had on this same point.

The Member further enquired as to:

- (a) the distance between the side-elevation of the proposed sunroom and the boundary of the adjoining property on Homestead Drive, Wigston; and
- (b) whether condition number three (at page 19) in respect of 'purposes ancillary to residential use' adequately prohibited the potential use of the sunroom as:
 - (i) a self-contained dwelling-unit; and, or
 - (ii) a function room; and, or
 - (iii) the associated manoeuvring and parking of vehicles.

The Planning Control Team Leader and Legal Advisor jointly-advised, accordingly:

- (a) the distance was approximately 2 metres;
- (b) a presumption as to the use of the proposed sunroom as a separate-dwelling should not be made, advising Members to respect earlier Officers' advice.
 - (i) that condition number three afforded a suitable safeguard from the proposed sunroom from becoming a self-contained dwelling-unit;
 - (ii) that the same condition did not prohibit any use as a function room which properly fell under the remit of 'ancillary' use;
 - (iii) the access way fell under Permitted Development Rights (pursuant to the Town and Country Planning (General Permitted Development) (England) Order 2015) in terms of the potential laying of hard-standing across 50% of the total area of dwelling-house's curtilage; and
 - (iv) once the main dwelling-house became occupied, the proposed sunroom could be constructed under the same Permitted Development Rights thus excluding any opportunity of the Planning Authority to condition the application and take enforcement action in case of any breach thereof.

The Chair agreed with Councillor Mrs H E Loydall earlier sentiments regarding the questionable description of the application as a sunroom.

Councillor G A Boulter sought clarification on the position of the Planning Authority upon any prospective appeal by the applicant against condition number three.

The Legal Advisor advised that upon any prospective appeal, substantive and material reason(s) for the refusal to lift any condition must be given. If a breach of any condition occurred, an Enforcement Notice could be served and, or, an injunction to cease authorised use could be obtained from the County Court and, or, criminal proceeding could be brought at the Magistrates' Court against the owner/occupier. The term 'ancillary' was said to be legally-defined term established in case-law. He advised that other regulatory enforcement regimes were available to the Borough Council to control other unauthorised and, or, nuisance activities at the property.

Councillor Mrs S Z Haq enquired as to whether condition number three adequately prohibited the potential use of the sunroom for a business or commercial activity.

The Planning Control Team Leader stated that the condition restricted the use to 'purposes ancillary to the essential use' however advised that the condition could be expanded to exclude any use for business or commercial purposes, accordingly.

It was moved by the Vice-Chair and seconded by Councillor Mrs S Z Haq that:

- (i) Condition number three be amended to exclude any use for a business or commercial purpose; and
- (ii) Delegated authority be granted to Officers to approve the appropriate wording thereof.

UNANIMOUSLY RESOLVED THAT:

	<p>Condition number three be amended, accordingly.</p> <p>Councillor F S Broadley sought clarification on the distinction between the present application and the previous application in 2016 (Ref. No: 16/00301/CLP).</p> <p>The Planning Control Team Leader advised that the previous (refused) application in 2016 was one for a Certificate of Lawfulness for Proposed Use or Development.</p> <p>The Vice-Chair enquired as to whether any future change of use application could otherwise be submitted and, or, potentially granted for a Use Class A.</p> <p>The Planning Control Team Leader reiterated that any subsequent change of use application was to be considered on its own merits and at the appropriate time.</p> <p>RESOLVED THAT:</p> <p>The application be GRANTED planning permission in accordance with the submitted documents and plans and subject to the prescribed conditions (as amended).</p> <p>Votes For 7 Votes Against 2 Abstentions 2</p>	
50.	<p><u>EXCLUSION OF PRESS AND PUBLIC</u></p> <p>RESOLVED THAT:</p> <p>The press and public be excluded from the remainder of the meeting in accordance with Section 100(A)(4) of the Local Government Act 1972 (Exempt Information) during consideration of the item(s) below on the grounds that it involved the likely disclosure of exempt information, as defined in the respective paragraph(s) 1, 2 and 7 of Part 1 of Schedule 12A of the Act and, that in all the circumstances, the public interest in maintaining the exempt item(s) outweighed the public interest in disclosing the information.</p>	
51.	<p><u>THE PLOUGH INN PUBLIC HOUSE, WIGSTON</u></p> <p>The Committee gave consideration to the report containing exempt information (at pages 22 - 23) as delivered and summarised by the Planning Enforcement Officer which should be read together with these minutes as a composite document.</p> <p>A debate considering the exempt subject-matter(s) of the report was held by Members in closed session.</p> <p>It was moved by the Chair and seconded by the Vice-Chair that the report be noted.</p> <p>RESOLVED THAT:</p> <p>The report containing exempt information be noted by Members.</p>	

	Votes For	7	
	Votes Against	2	
	Abstentions	2	

THE MEETING CLOSED AT 8.56 PM



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CHAIR
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THURSDAY, 13 APRIL 2017
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