

Application Number

Address

Report Items

a. 19/00216/COU

Unit C
15 Mandervell Road
Oadby
Leicestershire
LE2 5LQ

;

b. 19/00354/VAC

Freer Community Centre
242 Leicester Road
Wigston
Leicestershire
LE18 1HQ

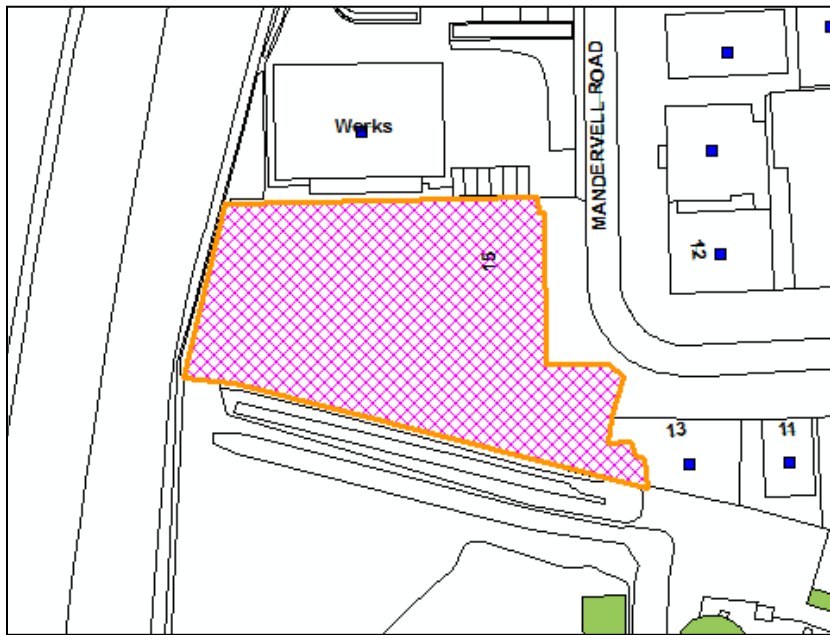
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c. 19/00355/VAC

Pavilion
Horsewell Lane
Wigston
Leicestershire

(

a.	19/00216/COU	Unit C 15 Mandervell Road Oadby Leicestershire LE2 5LQ
	10 May 2019	Change of use from storage and distribution (Use Class B8) to a gym (Use Class D2) (renewal of 17/00038/COU)
	Case Officer	Richard Redford



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Site and Location

The application site is located on Mandervell Road, Oadby, within the Oadby Industrial Estate. The building is located in a Base Employment Area. The change of use proposal relates to part of the industrial unit (Unit C). The host building has been separated into six smaller units, comprising of a martial arts club, offices, general industrial and storage/potential unauthorised retail use. Within the wider context of the Base Employment Area, there are a range of uses falling within Use Class B employment purposes including business, offices, light industrial and general industrial, as well as storage and distribution. There are also a small number of other non-B Use Class uses.

The application is being brought before the Development Control Committee as the application is considered to be of public interest alongside potential policy implications.

Description of proposal

Planning permission is sought for the change of use from storage and distribution (Use Class B8) to a gym (Use Class D2) as a renewal of 17/00038/COU.

Planning permission was approved in June 2012 for the change of use from storage to gymnasium for a temporary 2 year period which was renewed in 2014 for a further 2 year period. Subsequently, in 2017 a further application was sought for the continued change of use of the unit as a gymnasium from storage and distribution where a 2 year temporary permission was granted based on the provisions of policies of the then emerging Local Plan (now adopted) with an informative stating:

'The owner/applicant is advised to continue the marketing of the unit for B Class employment purposes during the period covered by the temporary approval to enable sufficient evidence to be submitted should a new planning application be submitted for considered in the future. The evidence should include dates and full details of all advertisements (including newspapers and websites), the level of interest shown together with the feedback given from those who have shown initial interest in the unit.'

As submitted, the application seeks permission for the change of the building from storage and distribution (Use Class B8) to a gym (Use Class D2), to operate between the hours of 06:00 and 22:00 Monday to Friday, 10:00 to 17:00 on Saturday and 10:00 to 16:00 on Sundays and Bank Holidays. Submitted as part of the application are a couple of documents from Box Pod showing various units being marketed; a letter stating the unit has been marketed for approx. two years via 'boxpod' as well as in the office in the application unit and that some major refurbishments has been carried out with all the units in use but with no enquiries for B Use Classes for the application unit; a Planning Statement by the agent setting out their position in relation to the current adopted policies as well as concluding the applicant's willingness to accept either a further temporary or permanent permission.

Through the consideration of the application, and based on consultee responses, further information has been provided by the agent in response to issues raised in relation to policy requirements.

The statutory determination period for this application expires on the 20 October 2019 and it is intended to issue a decision as soon as practicably possible after the Committee meeting.

While the date for the unit to revert back to the authorised B8 storage use has passed as a result of the temporary permission having expired, no enforcement action has taken place as the application was submitted prior to the 30 June 2019 date and the consideration of the application has been on-going.

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Relevant Planning History

17/00038/COU - Renewal of 14/00197/COU for the continued use of subdivided unit gymnasium (Use class D2) formally used for storage or distribution (Use Class B8) – Temporary approval issued on 30 March 2018 for up to 30 June 2019 – included an informative detailing what information would be required to be included in any future application for the change of use.

14/00197/COU - Continued use of subdivided unit as gymnasium (Use class D2) formally used for storage or distribution (Use Class B8) – Temporary approval 16.07.2014

14/00165/COU - Continued use of subdivided unit as Martial Arts Club (use class D2) formally used for storage or distribution – Temporary approved 24.06.2014

12/00141/COU - Retention of change of use from storage (use class B8) to gymnasium (use class D2) (Unit C) – Approved June 2012 for a temporary two year period

Consultations

Leicestershire County Council Highway Authority – No objections

Following an initial objection that further information relating to highway and parking matters was required and duly provided, the Highway Authority has no objections to the proposal subject to a condition.

Oadby and Wigston Environmental Health – No observations to make

Oadby and Wigston Planning Policy – Object

While full details are provided in the consideration below, in summary it is considered that taking account of the information submitted on this application there is a lack of clear and robust evidence to show the proposal complies with the provisions of paragraph 86 of the National Planning Policy Framework (NPPF) in relation to applying a sequential test and all five elements of Policy 25 as contained in the OWBC Local Plan 2019.

Representations

Neighbours have been informed and a notice placed with 1 letter of representation objecting to the proposal. The date for the receipt of comments expired on the 5 August 2019.

The reasons for objection can be summarised as follows: -

- * There are already an increasing number of gyms and fitness activities on the industrial estate;
- * Parking in the area is an increasing problem;
- * 15 Mandervell Road has used a great deal of its car park for storing shipping containers;
- * The increased traffic is problematic and poses a danger to pedestrians and domestic vehicles;
- * Those currently using gym facilities often leave their vehicles outside of factory units which block use for employees and visitors of those other businesses

Relevant Planning Policies

National Planning Policy Framework

Oadby and Wigston Local Plan

Policy 25 - Protecting Identified Employment Areas

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Planning Considerations

The main issues to consider in the determination of this application are the principal of the development, amenities and highway / parking.

Principal of the proposal:

The new Local Plan was adopted by the Council on Tuesday, 16 April 2019 and, therefore, this document is the principle Plan when considering planning applications as part of the decision making process.

This proposal is seeking full planning permission for the change of use of the premises at Unit C, 15 Mandervell Road, Oadby from use Class B8 (Storage or Distribution) to D2 (Assembly and Leisure).

A temporary Planning Permission was originally granted in June 2012 (12/00141/COU), and since then, two further temporary planning permissions have been granted (14/00197/COU & 17/00038/COU), with the most recent allowing the retention of the D2 gym use up until 30 June 2019, with an informative attached to the 2017 temporary permission setting out the information needing to be submitted with any subsequent information.

Paragraph 38 of the National Planning Policy Framework (NPPF) states that *'local planning authorities should ... work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area'*.

The proposed use is a D2 Use Class and is, therefore, considered a town centre use. Paragraph 86 the NPPF states that:

'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.'

A sequential test has been undertaken and submitted by the applicant as part of the application. The test considers a small range of alternative premises in the Borough, as well as within Blaby District. However, the applicant has only included a very limited summary of the reasoning or justification for each property's exclusion.

Unit C, 15 Mandervell Road, Oadby is situated within the Kenilworth Drive 'Base' Identified Employment Area, as set out in the Council's most recent Employment Land and Premises Study (2017) and Local Plan (2019).

Identified Employment Areas that are classified as 'Base' are important employment areas in the Borough, but it is recognised that if sufficient evidence is provided, the Council can allow a level of

flexibility for non-B Use Class proposals, subject to the proposal satisfying the specific criteria, as set out in Local Plan Policy 25 – Protecting Identified Employment Areas.

The criteria-based approach as contained in Local Plan Policy 25 that this proposal must satisfy in order to be granted planning permission is set out below:

Proposals to change the use of land or buildings within 'Base' Identified Employment Areas from B1a, B1b, B1c, B2, or B8 will only be acceptable if they clearly demonstrate that the alternative use(s):

- *Will not have an adverse impact on any other employment use(s) in the identified employment area in which it is located;*
- *Will not significantly reduce the overall supply and quality of employment land and premises within the locality;*
- *Will deliver economic regeneration benefits to the site and / or area or there will be a significant community benefit which outweighs the impact;*
- *Will involve a vacant building for which there is clear and robust evidence of proactive marketing (for a minimum of twelve months) with registered commercial agents at a reasonable price to demonstrate that there is no realistic prospect for continued employment use; and*
- *The site / premises are no longer suitable or reasonably capable of being redeveloped for employment purposes*

The Decision Notice for 17/00038/COU detailed that the use of Unit C, 15 Mandervell Road will revert back to the authorised use (Use Class B8) on 30 June 2019, unless a subsequent planning application is approved in the meantime, accompanied by relevant evidence, including a evidence of effective marketing of the site for B class employment uses (B1, B2 and B8), including dates and full details of all advertisements, the level of interest shown and any feedback from those who initially indicated an interest in taking up the unit. This 2017 temporary permission has, therefore, lapsed with no enforcement action having commenced pending the consideration and determination of this application.

To note, Local Plan Policy 25 was not subject to any Main Modifications by the Inspector through the Local Plan Examination in Public and was found sound by the Planning Inspector. The content of the policy is supported by robust evidence in the shape of the Employment Land and Premises Study (2017).

Giving consideration to the applicant's newly submitted planning application, and assessing it against the criteria as per New Local Plan Policy 25, the following conclusions can be made:

Will not have an adverse impact on any other employment use(s) in the identified employment area in which it is located

The applicant's Planning Statement states that a D2 gym business has operated from these premises since 2012. Over the course of that period of time, the applicant has suggested on each occasion (when seeking planning permission) that they have developed positive relationships with surrounding businesses. The Council is not aware of any negative feedback with regards to car parking arrangements or from other businesses within the No. 15, Mandervell Road, or indeed, from businesses located in the wider Identified Employment Area.

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Therefore, the applicant has satisfied this element of the criteria.

Will not significantly reduce the overall supply and quality of employment land and premises within the locality

Although the proposed change of use would result in the loss of 257 sq.m (gross area) of B8 storage and distribution floorspace, in relative terms, this is not a significant loss of employment land or premises within the wider Kenilworth Drive Industrial Estate, Oadby.

Therefore, the applicant has satisfied this element of the criteria.

Will deliver economic regeneration benefits to the site and / or area or there will be a significant community benefit which outweighs the impact

As per the applicant's submission, it is apparent that the business is delivering economic regenerative benefits to the site through employing two full-time members of staff, plus an additional 3 personal trainers who train their clients at the gym on an ad-hoc basis. However, it must be noted that these roles are not within a B8 use-class business, as per the authorised use of the site.

Evolution Fitness is enabling its members to improve upon their health and wellbeing, both physically and mentally. In total, there are currently 260 members at the gym.

Therefore, overall, the Council is satisfied that the applicant has demonstrated that this element of the criteria has been met.

Will involve a vacant building for which there is clear and robust evidence of proactive marketing (a minimum of twelve months), with registered commercial agents at a reasonable price, to demonstrate that there is no realistic prospect for continued employment use

In order for the Local Planning Authority to be satisfied that this element of the criteria has been satisfied, the applicant was granted a temporary planning permission in March 2017 with the advisory to the applicant that should they submit another planning application, they would be required to provide the Council with sufficient evidence to demonstrate that Unit C, 15 Mandervell Road, Oadby has been registered with commercial agents and marketed at a reasonable rate, for its authorised B8 Use Class.

This application has been submitted with a letter from 'Osbro International Ltd' (the landlord) regarding marketing of the unit, together with two screenshots dated April 2019, taken from 'Box Pods', which is an online commercial property agent.

Although the applicant has made an attempt to submit evidence that the unit has been advertised for approximately two years and that there has been no interest in the unit for B Class Uses, it is not possible to know whether this information is accurate because of the lack of detail provided in each of the submissions.

Therefore, unless the applicant can submit clear and robust evidence to demonstrate that the premises have been, or is being, actively marketed for B Use Class employment purposes, with the appropriate level of detail set out, including the dates and evidence that the advert has been 'live' for at least a minimum of twelve months, it is not possible for the Council to establish whether there is a realistic prospect for the unit to be used for B class employment purposes.

Therefore, based on the initially submitted evidence, the applicant failed to satisfy this element of the criteria.

The site / premises are no longer suitable or reasonably capable of being redeveloped for employment purposes

In accordance with paragraph 81 of the NPPF, New Local Plan 25 seeks to '*set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth*'. The criteria-based element of Policy 25 allows a degree of flexibility to the range of permitted businesses in the Borough's 'Base' identified employment areas, provided that applicants are able to satisfy the five-point criteria, as contained in the Policy.

In order for the Local Planning Authority to be satisfied that this element of the criteria has been satisfied, the applicant is required to provide the Council with clear and robust evidence to demonstrate that premises are no longer suitable or reasonably capable of being redeveloped for employment purposes.

As stated above, although the applicant has made some attempt to demonstrate that the unit has been advertised for approximately 2 years, it is not transparent from the information provided and, therefore, more evidence is required to demonstrate that the premises are no longer suitable or reasonable capable of being redeveloped for employment purposes.

Therefore, the applicant has failed to satisfy this element of the criteria.

Based on the documents submitted the proposal failed to comply with two of the five requirements of Policy 25 of the Local Plan. In order to afford the applicant an appropriate, and reasonable, opportunity to address the failure in these two areas they were provided with details of the issues to review, consider and subsequently respond.

The applicant duly submitted additional information to the Council in order to further demonstrate how this proposal satisfies all five elements of the bullet-point criteria of New Local Plan Policy 25 and Paragraph 86 the NPPF in relation to applying a sequential test with the additional information submitted as follows:

- * Additional Sites Study / Survey – Sequential Test
- * Letter from Box Pod Ltd – Marketing Evidence
- * Statement of Suitability for Employment Uses – B1, B2 and B8

The additional sequential test information provided considers a small range of alternative premises in the Borough, referencing a number of different online search engines.

The information included is still very limited, with a very brief summary of the reasoning or justification for why each property is not deemed suitable as an alternative location to operate the business. In order to fully satisfy the requirement of a sequential test, the level of detail provided for each unit considered should clearly demonstrate why each property may or may not be suitable.

It is apparent that there are not many suitable units currently available in the local area, but for those that are on the market, there should be a full explanation to explain why each has been discounted by the applicant.

There is a need to be satisfied that from the submitted sequential assessment demonstrates that there are no other town, district or local centre units or alternative units in other locations within the Borough that are more suitable and available at this time.

The applicant has submitted the following evidence to strengthen their justification to satisfy the final two bullets.

In relation to marketing evidence, a letter from the Director of Box Pod Ltd has been submitted by the applicant. The letter states that the current rental price of the unit is £10,500 per annum and suggests that this is a realistic market price for the size, condition and location of the unit. The letter also states that in the past 12 months, there have been 373 property enquiries, 59 property views, and 6 contact forms / email enquiries, and no enquiries were made in relation to B1 or B2 uses for the unit.

The letter does not specify whether B8 users were interested in the premises, nor does it include any information relating to what the enquiries entailed.

With regards to the suitability of the site for B1, B2 and B8 uses the applicant has submitted an additional statement setting out why the premises are no longer suitable for employment (B1, B2 and B8) uses. In addition to this, the letter from Box Pod Ltd regarding the marketing of the property states that the unit has not attracted the attention of B1 or B2 businesses.

The document suggests that the premises would be too costly to convert for most other user groups and that accessibility to the first floor unit via a narrow corridor and staircase would not be suitable for most businesses, particularly if they have heavy machinery or goods.

Giving consideration to all of the submitted evidence and assessing it against the last two criteria as per New Local Plan Policy 25, the following conclusions can be made:

Will involve a vacant building for which there is clear and robust evidence of proactive marketing (a minimum of twelve months), with registered commercial agents at a reasonable price, to demonstrate that there is no realistic prospect for continued employment use

In order for the Local Planning Authority to be satisfied that this element of the criteria has been satisfied, the applicant was granted a temporary planning permission in March 2017 with the advisory that should they submit another planning application, they would be required to provide the Council with clear and robust evidence to demonstrate that Unit C, 15 Mandervell Road, Oadby

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has been registered with commercial agents and marketed at a reasonable rate, for its authorised B8 Use Class.

The letter from the Director of Box Pod Ltd provides a brief summary with 'headline statements' regarding the level of interest that they have received in the past year, as well as what the current rental price for the unit is. However, the information provided does not clearly illustrate what information the advert for the unit includes, how much it is being marketed for, and with regards to the enquiries that have been received, there is no evidence demonstrating who those enquiries were from and what reasons were given for why the premises being marketed were not deemed suitable for their search criteria.

Although the Council recognise that the applicant has attempted to demonstrate that appropriate marketing has been undertaken, unfortunately at this time, the Council is still unable to make an informed decision regarding this element of the Policy criteria. Although the letter states that the property has been marketed and no firm offers were received, there is no evidence to support such statements.

In order to satisfy this element of the Policy, the Council would encourage the applicant to fully elaborate on the detail provided and to set out exactly what the advert was marketing and to provide as much detail and feedback that the prospective occupant(s) provided regarding why the unit was not deemed suitable for their needs. For example, copies of the enquiries received to demonstrate that these enquiries were received, and ideally, the dialogue exchanged regarding their suitability for their needs. The applicant may also wish to submit copies of invoices from Box Pods Ltd, to demonstrate that the unit has been continually marketed for at least 12 months.

In addition to this, further evidence to justify that the rental price at which the unit has been marketed is set at a reasonable rate is required.

It is also noted that the photos included within the advertisement from Box Pods does not reflect the premises that the gym operator occupies in Unit C, Mandervell Road. The unit that Evolution Fitness is operating from is an open plan unit, yet the photos provided in the advertisement show a much smaller premise consisting of offices and a photography studio.

Therefore, unless further information can be provided to demonstrate that Unit C, Mandervell Road has been appropriately marketed for at least 12 months, the applicant has still failed to satisfy this element of the policy criteria.

The site / premises are no longer suitable or reasonably capable of being redeveloped for employment purposes

In order for the Local Planning Authority to be satisfied that this element of the criteria has been satisfied, the applicant is required to provide the Council with clear and robust evidence to demonstrate that premises are no longer suitable or reasonably capable of being redeveloped for employment purposes.

The applicant has submitted a letter from the Director of Box Pod Ltd, together with a Statement of Suitability for Employment Uses – B1, B2 and B8. Combined, these two documents attempt to

demonstrate to the Council that the site / premises are no longer suitable or reasonably capable of being redeveloped for employment purposes.

Although the Statement of Suitability attempts to justify why Unit C, 15 Mandervell Road is no longer suitable or reasonably capable of being used for B use class purposes, as set out above, more evidence of appropriate marketing of Unit C and subsequent enquiries received in relation to the unit is required, in order for the Council to be fully satisfied that an appropriate level of marketing of this unit has been undertaken.

Therefore, having reviewed the additional information submitted, the applicant has failed to satisfy this element of the criteria.

Therefore, having taken account of the additional information submitted, although it is acknowledged that the applicant has attempted to further demonstrate that an appropriate sequential test and appropriate marketing has been undertaken, the Council is still unable to make an informed decision because of the lack of clear and robust evidence that has been submitted.

In addition to that, the applicant was also encouraged to elaborate on what the enquiries Box Pods Ltd has received on the property were; when they were received; and, what reasons were given by the prospective businesses regarding why the premises were deemed unsuitable for their needs.

It has been noted that the online advertisement that the applicant has submitted as part of their application from the Box Pods website illustrates photographs of a unit that does not correlate with the unit that gym operator, Evolution Fitness, is currently operating from.

Overall, the applicant has failed to demonstrate evidence of effective marketing of the site for its permanent authorised use and, therefore, has not been able to satisfy the fourth and fifth elements of the five-point criteria, as contained in New Local Plan Policy 25 of the adopted Local Plan (2019) and paragraph 11.11 of the Employment Land and Premises Study (2017).

Therefore, given that the applicant has not provided sufficient evidence to satisfy those elements of the Policy, this proposal is contrary to the Council's adopted Local Plan.

Given that an element of progress had been made on marketing, and with it appearing feasible that the Policy requirements could be met if the pieces of information were provided, officers considered it appropriate to request the further information from the agent in relation to the two points in question.

Resultantly, an up-dated sequential test was provided alongside an up-dated letter from BoxPod (who had/were undertaking the marketing), a statement/invoice evidencing marketing and a letter from the applicant which were duly reviewed.

With respect to the sequential test, the proposed use is a D2 Use Class and is, therefore, considered a town centre use where paragraph 86 the National Planning Policy Framework (NPPF) states that:

'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.'

The additional information provided by the applicant still considers a small range of alternative premises in the Borough, referencing a number of different online search engines. It also sets out a brief explanation as to why each premise listed is not suitable for their business need.

In order to comply with Paragraph 86 of the NPPF, the sequential assessment must robustly demonstrate that there are no other town, district or local centre units or alternative units in other locations within the Borough that are more suitable and available at this time.

In respect of the final two requirements of Policy 25 of the Local Plan the applicant has submitted further evidence to demonstrate that the owner of the premises (Osbro International) has had an agreement in place with Box Pods Ltd since April 2017 to market four units, including Unit C, Mandervell Road. The Invoice provided suggests that Unit C has been listed as '*1 Industrial Unit, showing as Taking Enquiries*'.

The applicant's letter acknowledges that the pictures used on the Box Pods Ltd advert for the property do not reflect the premises that the gym occupies. The applicant's letter states that the reason for this is because of '*the impact using the actual gym pictures could have on the potential business. The picture of the alternative unit is similar to the actual unit if it was empty, albeit slightly smaller*'.

Relating to the nature, type and feedback from the suggested property enquiries, property views and contact forms/email enquiries that Box Pods Ltd has received on this unit in the last 365 days, the applicant's letter states that '*In order to satisfy the element of the policy to ascertain the nature and type of interest and feedback received. This has been provided on one of the documents we have already sent to you. We requested this again with the Box pod Ltd Logo on the letter so it's more official and this states the type of interest the unit had. In respect of feedback we have had none that I am aware of however Box Pod Ltd maybe able to elaborate further and if you do require more intricate information feel free to contact them. As what we have provided thus far and going forward is as per your direct requests which we have then forwarded to Box Pod Ltd to provide us the further information*'.

Taking account of all of the previous and additional information submitted as evidence relating to this application, it is considered that there is still a lack of clear and robust evidence to demonstrate how this proposal has complied with Paragraph 86 the National Planning Policy Framework (NPPF) in relation to applying a sequential test and all five elements of the bullet-point criteria of Local Plan Policy 25.

Therefore, unless there are other material considerations dictating otherwise, this proposal is contrary to National Policy and Policy 25 of the Local Plan, despite Officers actively seeking to obtain the necessary information.

Within the submission it is stated that the applicant would be willing to accept either a personal or temporary permission should a full permission not be considered appropriate. From the preceding paragraphs a permanent permission is not considered acceptable due to the absence of the information as required by Policy 25 of the Local Plan. In terms of a further temporary permission, Officers do not consider this to be acceptable by virtue of the 2017 permission (which granted an 18

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month permission with informative attached setting out what would be required) having already afforded the applicant the opportunity to provide all the information required. Granting another temporary permission would be against best practice and is considered unlikely to result in the additional information being provided given that it has been sought on a number of occasions in relation to this application. With regards to a personal permission, in the professional opinion of Officers there are no very special circumstances or unique features of the proposal sufficient to set out that it can only be operated by the applicant so running contrary to the purpose of what personal permissions should be for.

Amenities:

The use has been in operation for a number of years as a result of temporary permissions as set out in the 'History' section above. The nature of the area is such that the use does not readily have impacts in terms of noise.

One letter of objection has been received raising a number of concerns including parking related concerns and resultant impact on users of other adjacent businesses. This matter is addressed below.

Highways/parking:

As submitted, the plans provided showed access via the existing access point to the car parking area adjacent to the side of the building which is utilised by all of the units in the building. An assessment of the submitted details by Leicestershire County Council, as the Highway Authority, resulted in their commenting that as submitted there was insufficient information to allow for a full assessment of the proposal and that a site plan showing parking provision would be required.

These comments were duly provided to the agent who provided a plan indicating the location of the parking spaces along with a cycle storage area to the side of the building as well as annotating an 'over-spill parking area' to the front of the building.

Following a re-consultation based on the plan provided, the Local Highway Authority advised that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development, therefore, does not conflict with paragraph 109 of the National Planning Policy Framework (2019), subject to the conditions outlined in this report.

The Local Highway Authority continued that it has provided prior comments on this proposal for a Change of Use from B8 Storage or Distribution Use to D2 Leisure Use. The unit has previously been granted temporary planning permission (Application 14/00197/COU) and the applicant seeks to make D2 use permanent for the unit. The site benefits from an existing access off Mandervell Road.

The Local Highway Authority considers the parking provision and on site turning arrangements sufficient for this development and request a condition that the development not be occupied until such point as the parking be provided as per the submitted plan.

In relation to the submitted parking plan and the requested condition, it should be noted, however, that a large number of the parking spaces marked on the submitted plan are currently occupied by metal shipping containers for which no planning history can be found. In order for the condition requested by the Highway Authority to be complied with, the containers on-site will need to be removed. Notwithstanding the conflict with national and local policy as set out above, it is considered that this parking provision issue could be dealt with by way of condition requiring that

within a defined period of time the containers be removed with the parking subsequently provided and retained thereafter.

Conclusion

In granting the temporary permission in 2017 for a period of 18 months, an informative was attached advising the applicant of what information and details would be required to be provided as part of any subsequent planning application based on the provisions of the emerging Local Plan policy which now forms part of the adopted Local Plan, and on which no changes were made by the Inspector following the Examination in Public of the now adopted Local Plan.

While the applicant has, through their agent, sought to provide the necessary information with the application, as well as throughout the consideration of the application as a result of dialogue with Officers, Officers consider that there is still a lack of clear and robust evidence to demonstrate how this proposal has complied with Paragraph 86 of the National Planning Policy Framework (NPPF) in relation to applying a sequential test and two of the five elements of the bullet-point criteria of Local Plan Policy 25. The proposal, therefore, conflicts with the provisions of the NPPF and the Local Plan. It is also considered that in the absence of the necessary details as outlined a full permission, personal permission and temporary permission would not be appropriate as no circumstances exist for any of them.

The proposal would not result in any adverse impacts on amenities of neighbouring and surrounding sites by way of noise, while also not impacting upon the highway in a severe manner that cannot be dealt with by way of conditions.

For the policy reason as set out, the application is recommended for refusal.

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

For the reasons set out in the above report then **Refuse** for the following reasons:

- 1 The provisions of Policy 25 - Protecting Identified Employment Areas of the Oadby and Wigston Local Plan 2019, based on the evidence within the Employment Land and Premises Study (2017), seeks to ensure that changes of use within 'Base' Identified Employment Areas to non-B Use Classes are only permitted subject to, amongst other requirements, clear and robust marketing evidence having been provided to clearly demonstrate that there is no realistic prospect for the units / land / buildings continued use for employment purposes.

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Such a requirement is also required through the provisions of the National Planning Policy Framework (NPPF). The Local Planning Authority considers that the applicant has failed to demonstrate evidence of effective marketing of the site for its permanent authorised use and has not satisfied the fourth and fifth elements of the five-point criteria, as contained in Policy 25 - Protecting Identified Employment Areas of The Borough of Oadby & Wigston Local Plan 2011 - 2031 (adopted April 2019) and paragraph 11.11 of the Employment Land and Premises Study (2017). The proposal therefore conflicts with the provisions of the NPPF including para 86, policy 25 of the Oadby and Wigston Borough Council Local Plan (2019) and the Employment Land and Premises Study (2017).

Note(s) to Applicant :

- 1 This refusal relates to the following documents and plans:
- 2 If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within:
 - * 28 days of the date of service of the enforcement notice, or
 - * within 6 months [12 weeks in the case of a householder appeal] of the date of this notice,whichever of the above periods expires first.
- 3 In dealing with the application, through ongoing dialogue and the proper consideration of the proposal in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the local planning authority have attempted to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application as required by the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. However, in this instance, it has not been possible to overcome the concerns raised and the proposal remains in conflict with the provisions of the Development Plan and therefore the application has been refused.

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

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requirements, to the provisions of any development order and to any directions given under a development order.

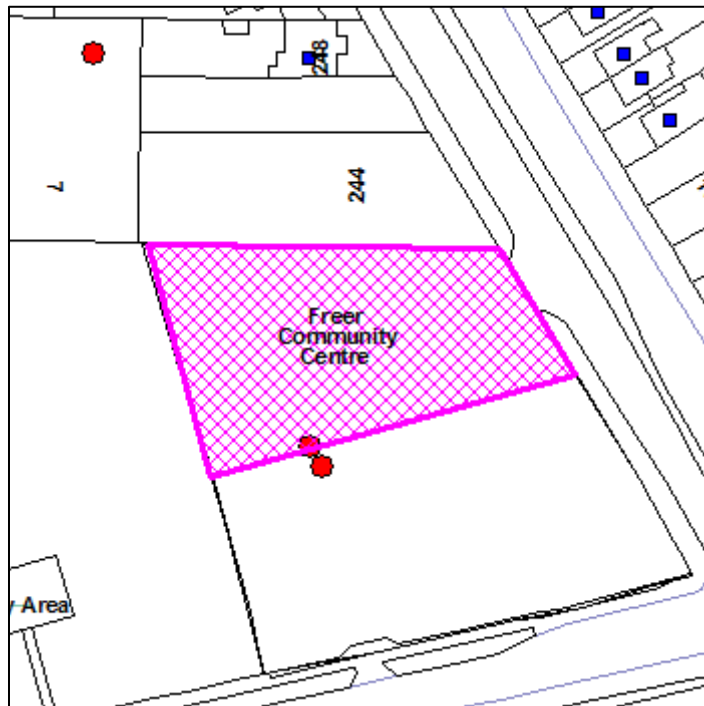
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Purchase Notices

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In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

b.	19/00354/VAC	Freer Community Centre 242 Leicester Road Wigston Leicestershire LE18 1HQ
	19 August 2019	Variation of condition 14 of permission 08/00263/R3FUL to extend opening hours from 08:00 to 23:30 Monday to Saturday to 07:00 to 23:30 Monday to Saturday.
	Case Officer	Mrs Tracey Carey



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Site and Location

The site is located on the corner of Leicester Road and Carlton Drive. The site was originally one site but was split as part of the 2008 application for the demolition of the former Poplars Community Centre and erection of new community centre and new care centre. The Community Centre is located along the western boundary with access from Leicester Road. The Care Centre is located in the south of the site accessed from Carlton Drive.

Description of proposal

The application is to vary condition 14 of permission 08/00263/R3FUL to extend opening hours from 08:00 to 23:30 Monday to Saturday to 07:00 to 23:30 Monday to Saturday.

The statutory determination period for this application expired on the 14 October 2019 and it is intended to issue a decision as soon as practicably possible after the Committee meeting.

Relevant Planning History

08/00263/R3FUL: Demolition of existing Poplars community centre & erection of new community centre and new care centre – Approved.

Consultations

OWBC - Environmental Health - No observations

Representations

Neighbours have been informed and a site notice placed with no letters of representation being received at the time of writing this report. The date for the receipt of comments expired on the 19 September 2019.

Relevant Planning Policies

National Planning Policy Framework

Oadby and Wigston Local Plan

Policy 44 – Landscape and Character

Supplementary Planning Document/Other Guidance
Residential Development Supplementary Planning Document

Planning Considerations

The application has been submitted following a request from a group leader who would like to make an on-going weekly booking from 7:00am on Tuesdays. This has previously been refused as it would breach the existing planning condition attached to the building, however, the Council is keen to see a more commercial approach to the hire of the Council's facilities and to ensure they produce a viable income stream.

The main issue to consider in the determination of this application is the impact of the proposal on neighbouring residential properties.

The site is located on Leicester Road (A5199) the main route from Wigston into and out of Leicester City Centre. Access to the site is also from Leicester Road.

Immediately north of the site is a detached single storey residential property with dormers to the front and rear (244 Leicester Road). There are 19 car parking spaces to the front of the site. 10 of the car parking spaces are adjacent to the side boundary of the neighbouring property, 5 of which are forward of the main wall of the house. The house is approx. 4.5m away from the boundary, has no side facing windows and is separated from the car park of the site by a single storey brick garage.

Given the location on an existing busy road leading into and out of the City and on a regular bus route it is likely that the property already experiences a level of background noise during peak times, more so during the morning rush hour when traffic is heading into the City. It should also be noted that as part of the original permission a condition was imposed which required the soundproofing of the community centre to prevent noise emissions from the building.

In view of the above, and whilst it is acknowledged that some parking spaces are adjacent to the boundary, given the separation of the dwelling by a brick garage and that there are no side facing windows it is not considered that the earlier opening by one hour would significantly impact on the residential amenities of this neighbouring property.

To the south of the site is the Leicestershire County Council Short Breaks Centre. There are windows along the rear elevation adjacent to the site although these are around 12m away from the car parking area. Given the distance and the Centre provides short break respite care only it is not considered that the proposal will significantly impact on the amenities of these residents.

Other Matters

The application is to vary condition 14 of the 2008 permission. The variation of a condition application results in a new planning permission and, therefore, it is necessary to review the previous conditions, which due to the historical nature may have previously been complied with and/or are no longer applicable. The remaining relevant conditions have been updated and have been re-imposed accordingly.

Conclusion

In summary, the proposed development is not considered to harm the character and appearance of the surrounding area, the amenity of neighbouring residential properties or the safe and efficient use of the highway and is, therefore, recommended for approval.

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

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Recommendation

For the reasons set out in the above report then **Permit** subject to the following conditions:

- 1 This consent shall ensure solely for the benefit of the applicant.
Reason: In accordance with the Town and Country Planning General Regulations.
- 2 The proposed community building shall be used for a community use and for no other purpose; including any other purpose in Class D1 or D2 of the Schedule to the Town and Country Planning Use Classes Order 1987 (as revised) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
Reason: In order that the Local Planning Authority is able to maintain effective control over the future development of the property given its location and in compliance with Policies 6 and 44 the Oadby and Wigston Local Plan.
- 3 The proposed Care Centre building shall be used as a centre to provide short break residential respite care and for no other purpose; including any other purpose in Class C2 of the Schedule to the Town and Country Planning Use Classes Order 1987 (as revised) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order.
Reason: In order that the Local Planning Authority is able to maintain effective control over the future development of the property given its location and in compliance with Policies 6 and 44 the Oadby and Wigston Local Plan.
- 4 Unless otherwise agreed in writing by the Local Planning Authority the Community Centre shall not be operated outside the following hours: 0700 to 2330 hours Monday to Saturday; 0800 to 2200 hours Sundays and Bank Holidays.
Reason: To ensure that the proposed development is compatible with existing development in the locality and in compliance with Policies 6 and 4 of the Oadby and Wigston Local Plan.
- 5 The parking area shall be so maintained at all times.
Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area.
- 6 Cycle parking provision shall be maintained and kept available for use in perpetuity.
Reason: In the interests of the sustainability of the development and to encourage alternative transport choice.
- 7 The access drive and turning space shall be maintained at all times.
Reason: To reduce the possibility of deleterious material being deposited on the highway (loose stones etc).
- 8 The 2.0m x 2.0m pedestrian visibility splays shall be maintained in perpetuity and there shall be nothing within those splays higher than 0.6m above ground level.
Reason: In the interests of pedestrian safety.
- 9 The access drive shall be so maintained at all times.
Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.

Note(s) to Applicant :

- 1 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).
- 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 (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Appeals to the Secretary of State

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

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Purchase Notices

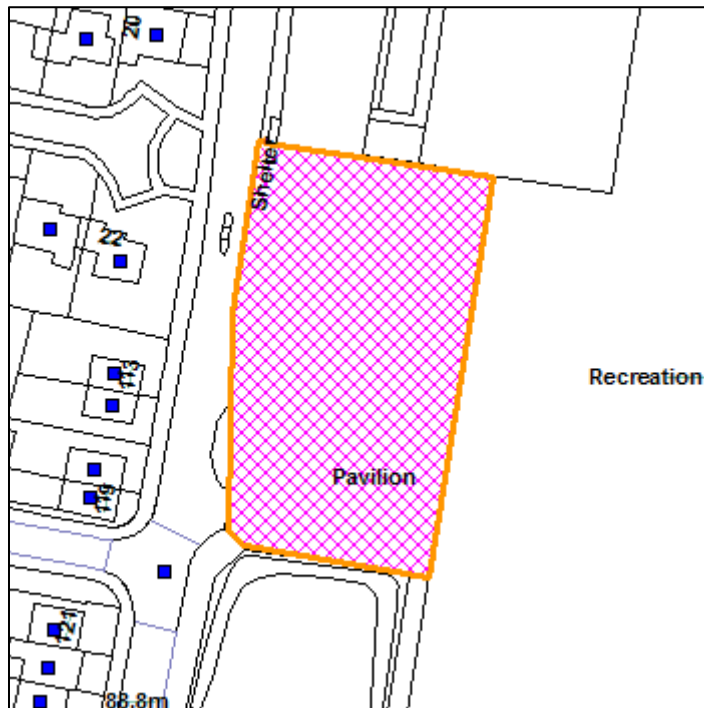
If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

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c.	19/00355/VAC	Pavilion Horsewell Lane Wigston Leicestershire
	19 August 2019	Variation of condition 7 of permission 18/00317/FUL to extend opening hours from 08:00 to 23:30 Monday to Saturday to 07:00 to 23:30 Monday to Saturday.
	Case Officer	Mrs Tracey Carey



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Site and Location

The site is located within a predominantly residential area accessed off the main distributor road serving the Little Hill Estate. The site has recently been redeveloped to provide a new community and sports pavilion with associated parking. Immediately north of the site is the Tennis Club and Boys Club buildings, to the west is the recreation ground associated with the Pavilion, with the Play area to the south and residential development to the east. The site has two accesses onto Horsewell Lane.

Description of proposal

The application is for a Variation of condition 7 of permission 18/00317/FUL to extend opening hours from 08:00 to 23:30 Monday to Saturday to 07:00 to 23:30 Monday to Saturday.

The statutory determination period for this application expired on the 14 October 2019 and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

18/00317/FUL : Demolition of existing sports pavilion and construction of new community and sports pavilion and associated parking – Approved.

Consultations

OWBC - Environmental Health – No observations

Representations

Neighbours have been informed and a site notice placed with no letters of representation being received at the time of writing this report. The date for the receipt of comments expired on the 19 September 2019.

Relevant Planning Policies

National Planning Policy Framework

Oadby and Wigston Local Plan

Policy 44 – Landscape and Character

Supplementary Planning Document/Other Guidance
Residential Development Supplementary Planning Document

Planning Considerations

Planning permission was granted by the Committee in September 2018 for the Demolition of the existing sports pavilion and construction of new community and sports pavilion and associated parking. Condition 7 of this permission restricts the opening times to between 08:00 and 23:30 hours Monday to Saturday and 08:00 and 22:00 Sundays and Bank Holidays. The reason for the condition is in the interests of the amenity of local residents and the locality in general.

The Council is keen to see a more commercial approach to the hire of the Council's facilities and to ensure they produce a viable income stream. In order to help achieve this, the current application

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proposes a change to the opening hours from 08:00 – 23:30 Monday to Saturday to 07:00 – 23:30, opening one hour earlier than existing. No change is proposed to the Sunday and Bank Holiday opening times.

The main issue to consider in the determination of this application is the impact of the proposal on neighbouring residential properties.

The nearest residential properties are in Georgeham Close around 20m away. These are separated from the site by the main distributor road which runs around the estate and which is also the main bus route. The properties are side facing to the road, the only window in the side elevations appears to be a bathroom at No.22.

It should be noted that the previous pavilion building had no opening hour restrictions and the car parking area due to its 'open' nature could be accessed at any time.

In view of the above, given the distance of the residential properties, the separation from the site by the main distributor road and that the previous building/car parking area was unrestricted it is not considered that the revised opening hours would significantly impact on the residential amenity of nearby properties.

Other Matters

The application is to vary condition 7 of the 2018 permission. The variation of a condition application results in a new planning permission and therefore it is necessary to review the previous conditions, which may have previously been complied with and/or are no longer applicable. The remaining relevant conditions have been updated and have been re-imposed accordingly.

Conclusion

In summary, the proposed development is not considered to harm the character and appearance of the surrounding area, the amenity of neighbouring residential properties or the safe and efficient use of the highway and is, therefore, recommended for approval.

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

For the reasons set out in the above report then **Permit** subject to the following conditions:

- 1 The parking areas shown on the approved plan(s) shall be made available at all times for their designated purposes.

Reason: In the interests of highway safety and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policy 4.

- 2 The cycle parking provision shown on the approved plan(s) shall be maintained as such for the life of the development.

Reason: To encourage sustainable alternatives to the motor car and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policy 4.

- 3 Unless otherwise agreed in writing by the Local Planning Authority the drainage scheme approved on 18 December 2018 shall be maintained as such for the life of the development.

Reason: To ensure adequate drainage facilities are provided to serve the development and to prevent pollution of the water environment as recommended by Severn Trent Water Limited and in accordance with the aims and objectives of the National Planning Policy Framework.

- 4 The building hereby permitted shall not be open to the public outside the following times:

Monday to Saturdays	07:00 and 23:30
Sundays and Bank Holidays	08:00 and 22:00

Reason: In the interests of the amenities of local residents and the locality in general in compliance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 5 The external lighting shall be carried out in accordance with the details approved on Drg No. 1870/E/01 Rev C (29 July 2019) and maintained accordingly.

Reason: In the interests of the amenities of local residents and the locality in general and in compliance with the National Planning Policy Framework and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 6 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:

Location Plan, drawing no. 5164891/001 submitted and received by the Local Planning Authority on 10 July 2018

Site Plan, drawing no. 5164891/002 submitted and received by the Local Planning Authority on 13 July 2018

Block Plan, drawing no. 5164891/003 submitted and received by the Local Planning Authority on 13 July 2018

Proposed Roof Plan, drawing no. 5164891/004 submitted and received by the Local Planning Authority on 17 July 2018

Proposed Floor Plan, drawing no. 5164891/004 submitted and received by the Local Planning Authority on 13 July 2018

Proposed Elevations, drawing no. 5164891/005 submitted and received by the Local Planning Authority on 17 July 2018

Proposed Site Sections, drawing no. 5164891/006 submitted and received by the Local Planning Authority on 10 July 2018

Demolition Plan, drawing no. 5164891/007 submitted and received by the Local Planning Authority on 10 July 2018

Reason: For the avoidance of doubt as to what is permitted by this permission and in the interests of proper planning.

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- 6 Any external lighting shall be switched off no later than 30 minutes after the approved closing times and shall remain switched off until opening time the following day.
Reason: In the interests of the amenities of local residents and the locality in general and in compliance with the National Planning Policy Framework and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

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BACKGROUND PAPERS

a. 19/00216/COU

b. 19/00354/VAC

c. 19/00355/VAC