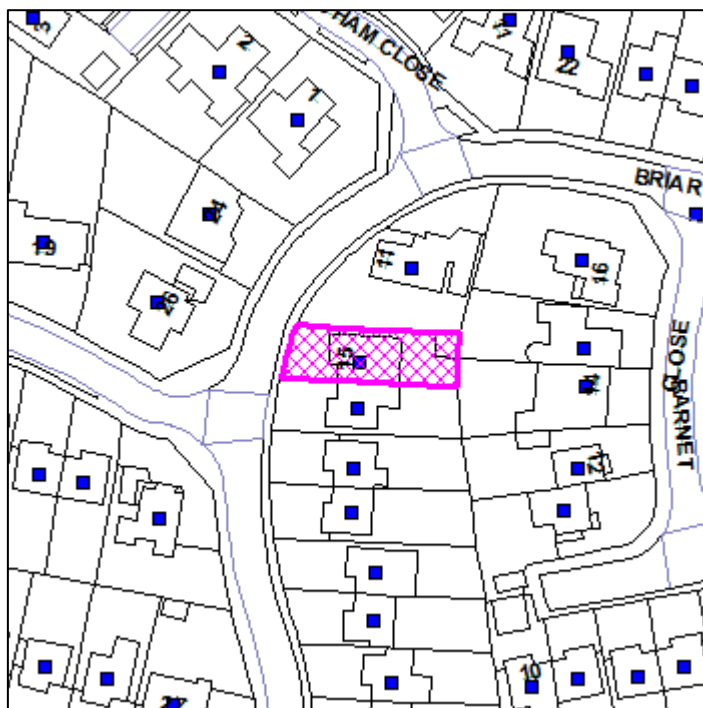


Application Number**Address****Report Items**

- a. **21/00212/FUL** 15 Briar Meads
Oadby
Leicester
Leicestershire
LE2 5WE

a.	21/00212/FUL	15 Briar Meads Oadby Leicester Leicestershire LE2 5WE
	2 June 2021	Change of use from C3 to C2 (Children Home OFSTED)
	Case Officer	Christina Emmett



© Crown copyright. All rights reserved Oadby & Wigston Borough Council LA100023293 Published 2021

Site and Location

The application site is a two storey semi-detached 3 bedroom house located on Briar Meads. Briar Meads and the surrounding roads form part of an established residential area which includes a mixture of detached and semi-detached houses as well as detached and semi-detached bungalows.

Briar Meads offers easy reach to a number of local amenities including shops, supermarkets and eating/drinking establishments within the Rosemead Drive Local Centre and Oadby District Centre. The property also benefits from being in the catchment area for local schools, including Brocks Hill Primary School, Gartree High School and The Beauchamp College as well as excellent local transport and road links.

The property itself comprises of a living, sitting /dining room, kitchen with seating and utility room, games room / safe-room and staff room with en-suite to the ground floor level.

To the first floor are 3 bedrooms, one bathroom and separate WC.

To the frontage of the house is a hard-standing driveway with three parking spaces with side access leading to the rear garden. The boundary with 11 Briar Meads is hedging (owned by 11 Briar Meads). Other than a slight raised kerb, there is no formal boundary between the application site and the adjoining property of 17 Briar Meads. The boundary is further demarcated by 6 white posts.

Description of proposal

The application is for a change of use from C3 dwelling to a C2 (Children Home OFSTED). The proposal is to provide short, medium and long-term care for three children aged 8-18.

Staffing support will be in line with the children's supervision requirements, and will be focused on children residing in group living environment, in order to prepare them for when they leave the care system.

The applicants have indicated that there will be two staff members on site 24/7 who will be awake overnight. In addition there will be one Home Manager on site between the hours of 9am-5pm.

There will be one visitor at a time permitted to the children's home which will be on a planned appointment basis only. The visitor will be a social worker or other professional supporting the child or relative of a child.

On average, professional visitor appointments are 1-2 times per month. Many therapeutic appointments will be conducted outside of the children's home as they will occur during the school day and on school premises with the school as lead facilitator.

The statutory determination period for this application expired on the 28.07.2021. An extension of time was granted by the applicant until the 30th August 2021 in order for the application to be heard by Members of the Development Control committee and for the decision to be issued thereafter.

Relevant Planning History

04/0004/8M Two storey with single storey rear extension

Consultations

Leicestershire County Council (Highways): The Local Highway Authority refers the Local Planning Authority to current standing advice provided by the Local Highway Authority dated September 2011.

The Local Highway Authority would advise the following points are considered:

Driveway (hardbound) surfacing for at least 5m back from highway boundary
Parking provision and dimensions.

Leicestershire Police: Leicestershire Police have no formal objections in principle to the variation of the application. However, we would like to make the following observations.

There is an existing vehicle access via Briar Meads entering at the south side of the site. There are three parking spaces within the site. Parking is in curtilage to the building. In support of this gable end windows are recommended to provide natural observation to provide an overview of the parking area if that is appropriate. Also permeability is not an issue as there are through routes within this site, but only a single entry point for vehicles.

Lighting throughout the site including the key vehicle entry point and other key areas such as open space should be to BS5489.

A Section 38 agreement is requested to install an electrical spur to the nearest lampposts [which] would allow immediate installation. All pedestrian or cycle walkways should be illuminated likewise. Open space is located to the south end with an attenuation pond within this area which is also recommended to have supporting lighting.

Consideration of the use of CCTV coverage of the key vehicle entry point is recommended to include Number Plate Recognition capability and other areas key to child safety. This will add an element of general security to the development providing improved security. Consideration of implementation should be made after occupancy and General Data Protection Act signage would need to be displayed. Alarm systems should be considered to include a monitored alarm system as per recommendations below. Also a personal attack activation capability is recommended.

Wheelie bins and cycles should be stored in secure areas where possible to avoid the potential for criminal use, as a ladder, mode of removal, or arson risk for bins or mode of escape, or to see re cycles.

Perimeter enclosure to the front is recommended to be 1m high including ground level foliage. Other boundary enclosure is recommended to be 1.8m in materials in keeping with the development but to provide effective security.

General recommendations

Foliage is recommended to be to a height of 1m and trees are recommended to be trimmed to have foliage no lower than 2m from the ground. This will provide a 1m clear field of vision. Bin and cycle

storage is recommended to be within the perimeter of dwellings with rear shed or garage storage recommended. Perimeter enclosure is recommended to be to a height of 1.8m in a material in keeping with the development.

All door and window sets will be to PAS24 (2016) which is now included in building regulations. There are other considerations such as BS 6375.

Security Locking and Fire Security and BS EN 50486 in relation to Audio and Video door entry systems. Consideration should be made to identify the most appropriate option for this site. Dwellings are recommended to have an Alarm System to BS7958, but there are other options on the Secured by Design portal which include BS6799 in relation to wire free alarm systems. Also BS EN 50131 and PD 6662 in relation to wired systems.

- * Street lighting columns to BS 5489 are recommended.
- * Appropriate fencing should be used to enclose the perimeter and is recommended to be 1.8m in height. This can be via planting or manufactured fencing.
- * Key access points leading into the development should be considered for CCTV coverage supported by lighting to allow identification during day and night. This would allow vehicle and facial recognition in key areas. Appropriate signage should be in place to be compliant with the Data Protection Act.
- * Natural surveillance should be possible via ground level foliage being trimmed to 1m high and trees to have no foliage lower than 2m from the ground to allow a clear field of vision.
- * Vehicular parking is recommended to be in curtilage as part of the dwellings where possible. Communal parking should be supported by natural observation, lighting and be set in clearly defined areas to deter unauthorised access.
- * Consideration of Secured by Design principles is recommended and information in respect to the different standards is available on request.
- * Opportunities to explore the potential for S106/CIL funding should be undertaken with relevant parties if appropriate.
- * Commercial sites may benefit from smoke cloaking devices to deter access and reduce potential loss.
- * An electrical spur is recommended under a section 38 agreement at each vehicular entry point leading into the development.

OWBC Planning Policy

The following provides the relevant planning policy in regards to this planning application:

- * National Planning Policy Framework (2019)
- * Oadby and Wigston Local Plan (2019)
- * Residential Development Supplementary Planning Document (2019)
- * Leicestershire Highways Design Guide (2018)

National Planning Policy Framework (2019)

National Planning Policy Framework (NPPF) states at paragraph 118c that Local Planning Authorities should 'give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs'.

Leicestershire Highways Design Guide (2018)

The proposed parking and access arrangements are in accordance with the Leicestershire Highways Design Guide and that the Leicestershire County Council as the Highways Authority is satisfied with the proposed arrangements.

Oadby and Wigston Local Plan (2019)

Local Plan Policy 11 – Housing Choices

This Policy states that the Council 'will support the development of ... specialist care accommodation ... that meets an identified need and is proposed in appropriate sustainable locations'. The Policy goes on to suggest that all residential proposals will need to reflect / respect the character of the area in which they are located.

The Case Officer must be satisfied that the applicant has demonstrated with credible evidence and data that there is an existing and future demand for this change of use from residential dwelling, to a residential institution.

Local Plan Policy 26 – Sustainable Transport and Initiatives

This Policy suggests that all new development proposals should be located and designed to reduce the need to travel by private modes of transport, and, that where the development proposal is of a significant scale, it must be accompanied by a transport assessment and / or a travel plan.

Therefore, the Case Officer must be satisfied that the proposed change of use and increased activity on the site, including shift rotation and likely movement patterns relating to deliveries and staff / visitor parking arrangements will not have a significant impact upon neighbouring residents in the area, as well as access arrangements into the property and the highway.

Local Plan Policy 34 – Car Parking

This Policy suggests that all new development proposals will be required to provide car parking and servicing space in accordance with the parking standards as set out in the Leicestershire Highways Design Guide (or equivalent).

Therefore, the Case Officer must liaise with Leicestershire County Council's Highways Department to ensure the proposal satisfies the Design Guide.

Conclusion

Adopted planning policy states that any specialist care accommodation should be meeting an evidenced local need and should be located within a sustainable location that is well integrated into the existing wider community to help create mixed and inclusive communities.

The Council's adopted Local Plan sets out a number of land allocations where the principle of residential development would be acceptable, for example the Borough's main town and district centres (including Wigston Centre); the wider Leicester Principal Urban Area; as well as, the three Directions for Growth allocations.

Should the applicant be able to demonstrate that there is an evidenced need for this type of specialist care accommodation within this Borough area, then the applicant must also be able to provide demonstrable evidence setting out why the proposal site is appropriate, in particular, to demonstrate to the Council why the loss of an existing residential dwelling (use class C3) is justified and therefore appropriate to accommodate the proposed children's care home in this setting (use class C2).

Representations

Neighbours were informed and a notice was placed closed to the site. As a result, 57 letters of representation were received with 55 marked as objections, 6 of those being from outside of the Borough. An enquiry was received concerning a petition but no petition was received by the Council.

A letter from a Solicitor's firm was received on behalf of the neighbours at No.17 and the points contained within have been taken into consideration.

A letter has been received from Neil O'Brien MP which has been included with the report as an Appendix to this report.

The date for the receipt of comments expired on the 1st July 2021.

The reasons for objection are summarised as follows: -

Significant increase in vehicles parked around the entirety of Briar Meads circular (off pavement) leading to significant risk of injury and accident due lack of visibility, blind corners and roadway obstruction.

Location of the property on a bend in the road, leading to potential accidents when staff or visitors access the property. The safety of the resident children when playing also a concern.

Increase in traffic and parking caused by children's home, including at unsocial hours as staff shifts might change either late in the evening or early in the morning. Hand-over of staff will mean not enough parking and off-street parking inadequate to facilitate demand. Further, the potential for an increase in noise levels coming from within the property, over and above what could reasonably expected from its current use. Any such increase in noise could cause significant harm to the residents of the attached dwelling at No. 17.

Emotional, aggressive and volatile behaviour of children with autism and the increased noise for neighbours and the neighbourhood in general.

External noise in the garden. Children playing or having emotional episodes outside would be detrimental to neighbours.

Inadequate staffing and care levels for the proposed number of children.

This is a peaceful neighbourhood and residents have chosen to live here for this reason. Approving a home for children whose families have not been able to cope with them would disturb that peace and cause stress to vulnerable older people in the area.

Property not suitable due to poor build quality, thin walls and poor insulation – the impact of noise from the children within the property would be detrimental to the neighbours. It will not be possible to adequately soundproof this property due to the construction.

Size of the property would not provide adequate space for the proposed number of people who will be in the property (up to three residents, two support workers, a manager, plus visits from professionals, families and friends).

Garden too small for three children to satisfy the Ofsted requirement of spaciousness, exacerbated by large brick outbuilding. Lack of parks in the immediate vicinity to offset this.

Detrimental impact on property prices.

Such applications set the precedence for future applications motivated by financial and commercial gain, as is the case with this one.

If permission is granted Woodleigh Healthcare could choose, subject to the required CQC/Ofsted registrations to make this residential care home available to other service user groups. These groups could include vulnerable children who require accommodating outside of their local authority area for their protection or adults with a range of different needs including mental ill health or substance misuse. This may lead to incidences of anti-social behaviour or criminal activity in the local area.

It's going to be a property run over 24 hours a day. This will affect the ingoing and outgoings through the day and night.

This property is overlooked by 4 or 5 other properties, which is not private enough for children with these complex needs, raising safeguarding issues for the children.

There are already a number of children's homes in Oadby, and this is sufficient for a small area.

How would waste and disposal of PPE needed to care for children with complex care needs be dealt with?

In accordance with Policy 6 of the Local Plan, all applications must be accompanied by a Design and Access Statement to demonstrate their compliance with the requirements in Policy 6. No such

design and Access Statement has been submitted, meaning that the application does not comply with Condition 6 and the Council should, therefore, refuse the application as it stands.

Furthermore, as noted above the DfE Guidance makes clear that sleeping accommodation and appropriate facilities for staff should be provided on site. However, the applicant has expressly stated that staff will not sleep on site. As such, the proposal conflicts with the relevant government guidance and as such it is considered that this represents a conflict with Local Plan Policy 11.

Inaccuracies and untruths contained within the planning application.

Concerns regarding Woodleigh Healthcare due to their other residential care facility having only been operational for 15 months so not yet having had an Ofsted inspection. Also, the current 'fast track' approach being employed by Ofsted in regards to the registration of new children's homes.

No Councillor representation has been received but there were several Councillor enquiries and an enquiry from the office of Neil O'Brien MP. This application has been brought to committee by Councillor Latif Darr who wishes for the following matter to be considered by Members:

"Introduction of a commercial business that is likely to affect a community of adjoining properties."

The matter of parking provision was in question due to the initial Block Plan submitted with the application but it has been clarified that the site contains parking provision for three cars.

Relevant Planning Policies

National Planning Policy Framework

Oadby and Wigston Local Plan

Policy 6 – High Quality design and Materials

Policy 11 – Housing Choices

Policy 34 – Car Parking

Leicestershire Highways Design Guide (2018)

Planning Considerations

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

- The impact of the proposal on neighbouring residential properties.
- The suitability of the property for use as a C2 Children's Home.

The impact of the proposal on neighbouring residential properties.

No 15 Briar Meads is a three bedroom semi-detached two storey house that lies within an established residential area being surrounded by a mixture of detached and semi-detached houses and bungalows.

It is proposed that No 15 Briar Meads would be used as a residential care home (Class C2) for up to a maximum of three young people resident at the site at any one time. The age group would range from 8-18 (i.e. school + FE age) and the residents would attend local schools, appropriate to their age and educational needs.

The property has a hardstanding frontage that, as existing, would accommodate 3 car parking spaces. In order to accommodate a boundary perimeter, as suggested by Leicestershire Police, and to maintain ease of parking and parking dimensions in accordance with LHA, it would be advisable to level the area of the front garden that is currently raised. During my site visit there were two cars parked within the curtilage of the site with room for a third. The Police consultation also commented that there is existing parking provision for three cars.

No concerns were raised by Highways in regards to parking and the NPPF (paragraph 111) states:

"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."

Residents have raised concerns about increased on-street parking from staff and visitors to the property. The applicant has confirmed that many of the therapeutic appointments will be off site.

There would be visitors to the property – whether they are family of the children being cared for or other professionals, but it would be unjustifiable to restrict a C2 residential care dwelling to a standard to which we would not hold an ordinary residential C3 dwelling as the proposed use is to provide a home environment for children in care.

Many families have two or more cars and receive wider-family visitors on a regular basis. Since the start of the pandemic many people now work from home and so there are more deliveries at all times of the day as people are now often home to collect parcels for both personal and work purposes. That said, it would be reasonable to expect that many household essentials such as food, toiletries and other items of necessity will be delivered with on-site staff taking receipt.

The position of the site on the bend of Briar Meads has also been taken into account and it is acknowledged that there is a blind bend, exacerbated by the hedge between the application site and the neighbouring property of No.11 which runs to the highway. The Local Authority is advised that the hedge does not belong to the owners of the application site. The access has been there for as long as the property has and has always functioned as such. Staff and visitors will need to exercise caution entering and exiting the site access in their vehicles as the current occupants have, in accordance with the Highway Code.

During the site visit, which lasted approximately 20 minutes at approximately 2pm, a small amount of traffic was observed. It was similar to other residential areas and Leicestershire Highways raised no concerns, as already stated in the Consultation section above.

Therefore, it is assessed that the impact of visitors and staff turnover is not of a sufficient severity to impact road congestion or pedestrian safety, nor grounds for refusal of this application.

The suitability of the property for use as a C2 Children's Home.

The application site is a two storey semi-detached 3 bedroom family home that is proposing to operate as a residential C2 children's home.

The planning question is whether or not this home is suitable for use as a C2 (Children Home) and it is for Ofsted to periodically assess the suitability of the facilities, the operation, the management, staffing, provision and other necessary criteria.

Policy 11 of the adopted Oadby and Wigston Local Plan: Housing Choices advises that the Council will support the development of amongst other things specialist case accommodation that meets an identified need and is proposed in appropriate sustainable locations.

In determining an identified need within the local area there are challenges for the Local Planning Authority. The County Council was consulted but no response was received, which was not unexpected as we have had a number of such applications and were recently advised of the following in response to the recent 105 Foxhunter Drive, Oadby application:

The County Council doesn't usually respond in detail to individual planning applications such as this. The main reason for this is that we cannot guarantee that we would use/place children and young people in such a provision just because it is located within the County. The way we commission and procure placements is bound by National and Local Contract Procedure Regulations and therefore in order for us to place with any provision, the responsible provider would need to meet a number of checks with us and be part of our local commissioning frameworks (one of these checks would be that the provision passes registration with the regulatory body, Ofsted - and that registration process is not something we can control).

Therefore, whilst the growth of any new provision in the Council is of interest in terms of meeting our local sufficiency needs, the emergence of a new provision doesn't not alone mean that the Council would ever do business with this provision and therefore to endorse a specific provision feels misleading. Furthermore, the Council is also aware that the growth of provisions in the County could mean the number of vulnerable children placed within Leicestershire by other local authorities could grow – this provider could join the commissioning frameworks of other LA's (nationally) who could then chose to place their children/young people in it. This is always a concern to the Council as it could limit our own access to local placements (subject to the commissioning conditions above) but also potentially increases the pressure on local universal services.

The other reason that the Council doesn't usually comment on planning applications is that this could be seen to be favouritism of one provider over another; this could lead to challenge from the providers we do work with through our local commissioning frameworks and for whom we would not have supported previous planning applications.

The applicants already operate a residential children's home elsewhere within the County and have identified a need due to an inability to be able to provide places to all children who have been referred to them for a placement. The County Council are neutral because of contracting obligations Nevertheless, there is a local need, and therefore the proposal is in accordance with Policy 11 of the Local Plan.

A number of representations comment on the property being inappropriate and unsuitable for such a residential facility. However, C2 children's home is still a form of residential dwelling and the proposal is seeking to provide small group living.

The building itself, such as matters of insulation and soundproofing will need to be considered if planning permission is granted, and subject to Building Regulation approval. Twice a year Ofsted (and any other regulatory bodies) will also make their own assessments on the suitability of the building, environment and facilities and provision as a whole.

The property is a three bedroom semi-detached family homes and the proposed use for three children would replicate this scale of use. Therefore in terms of scale there would be little difference.

The size of the rear garden and the amenity space available to the resident young people, has been highlighted in a number of representations. There is a large structure in the garden that takes up a large amount of space and is currently being used as storage by the current occupiers. These concerns have been discussed with the applicants who have agreed that they will demolish the structure to create more garden space. Given that three young people might feasibly wish to play outside during good weather, I would recommend demolition of the structure as a further condition of planning permission with access to outdoor amenity space as vital for the mental and emotional wellbeing of children.

Leicestershire Police were consulted with the comments received appearing to be generic and relating to larger developments than this change of use proposal. Further, the proposal is for up to three children and any safeguarding matters would be dealt by the operator and other agencies if they are successful in securing a contract to run the home.

Conclusion

In conclusion this change of use proposal to C2, would not generate significant additional traffic in the area, nor impact amenity, with a maximum of up to three children residing at the house at any one time – equivalent to existing family homes within the area. Therefore, taking all of the above into consideration, officers conclude that there is insufficient evidence to warrant the refusal of the application.

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 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 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:

Application Form submitted to and received by the Local Planning Authority on 23 April 2021
Location Plan, provided by BL Design on 23 April 2021
Planning Layout Revised (Existing & Proposed Layout); Drawing No. 5075, provided by The Drawing Room, received by the Local Planning Authority on 11 June 2021.
Reason: For the avoidance of doubt as to what is permitted by this permission and in the interests of proper planning.
- 3 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) or any order revoking and re-enacting that Order, this permission shall relate to the use of the premises as a Care Home 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 Policies 6 and 11 of the Oadby and Wigston Local Plan 2019.
- 4 The maximum number of children accommodate at the premises shall not exceed 3 at any one time.
Reason: For the avoidance of doubt and to enable the Local Planning Authority to consider any proposal to increase the number of residents and in accordance with Policy 6 of the Oadby and Wigston Local Plan 2019.
- 5 The external structure in the rear garden shall be demolished prior to occupation.
Reason: To create adequate amenity space that promotes healthy living and access to outdoor space in accordance with the aims and objectives of the National Planning Policy Framework and Policy 6 of the Oadby and Wigston Local Plan 2019.

Note(s) to Applicant:

- 1 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.
- 2 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).

- 3 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.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

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.

BACKGROUND PAPERS

a. 21/00212/FUL

