

**MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT THE COUNCIL OFFICES, WIGSTON ON THURSDAY 5 DECEMBER 2013, COMMENCING AT 7.00 P.M.**

**IN ATTENDANCE:**

Councillor L A Bentley – Chair  
Councillor Mrs L M Broadley – Vice Chair

Councillors: G A Boulter, D M Carter, M H Charlesworth, R Eaton, Mrs J M Gore, Mrs S Z Haq, Mrs R Kanabar, J Kaufman, Mrs L Kaufman, Mrs H E Loydall, R E R Morris, R Thakor (sub)

Officers in Attendance: A Court, C Forrett, T Carey, D Biddle, S Jinks and G Richardson

Min Ref	Narrative	Officer Resp
44.	<p><b><u>APOLOGIES FOR ABSENCE</u></b></p> <p>An apology for absence was received from Councillor F Broadley and Mrs S B Morris</p> <p>Councillor R Thakor substituted for Councillor B Dave</p>	
45.	<p><b><u>MINUTES</u></b></p> <p><b>RESOLVED:</b> That the minutes of the previous meeting of the Committee held on 7 November 2013, be taken as read, confirmed and signed, subject to the amendment stated above.</p>	
46.	<p><b><u>DECLARATIONS OF INTEREST</u></b></p> <p>Councillor Mrs H E Loydall noted that she had spoken to the Licensing Officer about application 13/00448/COU on Agenda item 6, in relation to licensing requirements.</p> <p>Councillor Mrs R Kanabar noted that a relative had an interest in one of the matters on the Agenda but that she had not discussed the case with them</p> <p>Councillor M H Charlesworth asked whether he and Councillor R Eaton were required to declare a potential interest in the matter for which a petition was to be received by the Committee. The Director of Services stated that such declaration was not required as the petition was only being received at the Committee and that no debate would take</p>	

	<p>place.</p> <p>Councillor G A Boulter noted that he had had some involvement with Officers regarding application 13/00448/COU on Agenda item 6, but that he would keep an open mind when making the decision.</p>	
<p><b>47.</b></p>	<p><b><u>PETITIONS AND DEPUTATIONS</u></b></p> <p>A petition was received in objection to Planning Application No 13/00403/OUT - Land South Of Newton Lane &amp; East Of Welford Road, Wigston, which is to be heard at a future meeting of the Development Control Committee.</p> <p>This was formally received by the Chair and it was noted that there was a speaker at the Committee but that there would be no debate on this matter at the Committee such that Members did not fetter their discretion.</p> <p>The speaker, Mr Guise outlined the contents of the petition, in particular noting his disappointment that insufficient time had been given for residents to respond to the planning application and that it was felt that Cllr John Boyce had made it clear at the public meetings that he fully supported the planned development such that it would go ahead irrespective of the feelings of the local community.</p> <p>A Member asked that the comments made in relation to Cllr John Boyce were looked into and it was agreed that the Director of Services would consider the same.</p> <p>The Chair noted that the planning application might be considered at the meeting of the Development Control Committee on 30 January provided that all of the relevant information has been received by this time.</p>	
<p><b>48.</b></p>	<p><b><u>REPORT OF THE DEVELOPMENT CONTROL MANAGER</u></b></p> <p><b>1. 13/00119/FUL - Proposed development to erect 28No. dwellings and a commercial unit (Rev B, C, D, E and H) (Former Site Of St Georges Houses, Moat Street, Wigston)</b></p> <p>The Area Planning Officer outlined the report. This matter was heard at the Development Control Committee on 15 August 2013, where it was resolved to permit the application.</p> <p>However, Members had raised several concerns in relation to the aesthetics of the commercial unit and the positioning of the ATM. The Committee gave delegated powers for Officers to agree an amended design. The application presented at this</p>	

Committee proposes moving the ATM to an alternate location and the design of the building has been changed. The applicant also suggested that the “maintenance management company” condition could be dealt with by Unilateral Undertaking, as there was a suggestion that no affordable housing provision can be supported.

A viability report had been commissioned by the Council, however, this had not yet been received. Therefore, alternate recommendations were given subject to the contents of the viability report. It was suggested that this decision could be delegated to officers subject to the contents of the viability report.

It was confirmed that there was a draft Unilateral Undertaking which was currently being considered by the Council.

Several Members noted their disappointment that the viability report had not been received in time for the Committee. They asked whether the matter could be deferred and the Planning Control Manager noted that although Members could do so, this may result in the loss of the commercial partner, who had stipulated the end of the calendar year as the deadline for securing planning permission. In any event, Members would not be able to challenge the contents of this technical viability report and the conclusions drawn in it would be final.

The Director of Services confirmed that it was for the Committee to decide whether the lack of the viability report warranted the deferral of the decision, but as the contents of the report were factual and could not be challenged she noted the risks of deferring.

The Area Planning Officer confirmed that there was still a condition that the materials to be used for the development were to be agreed with Officers in advance. She also confirmed that the proposed housing development was the same as set out in the application heard at the Development Control Committee on 15 August 2013.

It was moved that the decision be delegated to Officers in consultation with the Chair of the Committee and it was requested that the viability report be given to Members once received, for their information.

Councillors M H Charlesworth and Mrs J M Gore abstained from the vote.

**RESOLVED:** That the decision be delegated to Officers in consultation with the Chair of the Committee and subject to

contents of the viability report.

**2. 13/00448/COU - Retention of building to rear for ancillary domestic use & for the breeding of cats (11 Lincoln Drive, Wigston)**

The applicant, Dr Owais, noted that the outbuilding was within the parameters of the permitted development and would not ordinarily need planning permission. He added that it was built to a high standard and in conformity with the building regulations, before setting out the features of the property. He suggested that the building does not obstruct or overlook any other properties.

Mrs S Gray, an objector, argued that neighbours had never been consulted or showed any plans of the outbuilding prior to its erection. She alleged that the use of the building had changed 3 times and disputed that it was now used solely for domestic use. She noted that the windows look into her garden and that the outbuilding was out of character for a residential area. She argued that the building was built specifically for cat breeding purposes.

She noted that an enforcement notice had previously been issued to remove the building and cease the business, so could not comprehend that permission for retention could now be given.

Mr A R Willis, a second objector, reiterated that neighbours were never consulted on the erection of this outbuilding. He commented on its size and disputed the suggestion that it was to be used for domestic purposes only given its size and composition.

He contested that the number of cats at the property far exceeded any domestic use and that the company, A1 Sphinx, was being advertised on the internet as a cat selling business. He noted that the use of the premises had been changed at least three times and questioned the well being of the cats kept in this outbuilding.

The Area Planning Officer outlined the application. There was an update which meant that the current application was now solely for retention of the structure. Enforcement action was separate from the application and was looking at the business use.

It was noted that had this outbuilding been constructed for domestic purposes only from the outset, then it would have fallen within the permitted development criterion and no

planning application would have been required. However, as it was constructed for business purposes, a planning application was now required. On this basis, the application was recommended for approval subject to the information contained within the report.

Members queried what was meant by permitted development in this instance and the Planning Control Manager explained. He noted that the interior of the building had no bearing on the decision and that, in effect, they should be concerned with the shell of the building.

As this fell within the parameters of the permitted development criterion it would not have required a planning application at all had it been constructed solely for domestic purposes. Given that the application was to retain the building for domestic use, he added that if the Council served an enforcement notice to demolish the outbuilding, the applicant could demolish and then re-build the structure in same dimensions the next day without planning permission provided that it was for domestic purposes, as it would be permitted development.

He confirmed that the fact that the property was being used to operate a business was a separate matter. If this was being pursued as separate enforcement action and should not be considered in making this decision. Members disputed this in that the two matters were inextricably linked. They suggested that no evidence had been put forward to support the use of the outbuilding as an ancillary domestic building.

Members were not comfortable with the size of the structure and the fact that it was comprised of several small rooms, suggesting it was not intended for domestic purposes.

A question was raised as to the need for additional parking and it was confirmed that as this application was now for retention for domestic use only, no additional parking was required. It was also confirmed that all other planning considerations, including garden space requirements and distances between windows, were complied with.

There was a suggestion to defer the application until the use of the outbuilding was known. The Chair stated that it could not be deferred to determine the proposed use when this was already an application for domestic use.

The Planning Control Manager reiterated that this application was for retention of the outbuilding for domestic purposes. The reasons for refusal in the original report had been on the basis of the business use but as this had now been removed from the

	<p>application the recommendation was to permit the application. He noted that the permission could be modified to contain a condition to provide details of an internal layout which was more akin to a domestic use, which would deal with any potential for overlooking of neighbouring properties.</p> <p>It was noted that internal lighting could not be conditioned and it was stated that the structure could not be used as an independent dwelling.</p> <p><b>RESOLVED:</b> To refuse the application on the grounds that the it was out of character with the streetscene and was not being used for the reasons given by the applicant in the application.</p>	
49.	<p><b><u>PLANNING ENFORCEMENT CHARTER</u></b></p> <p>The Corporate Enforcement Officer set out the report and noted that the recommendation was for the formal adoption of the Enforcement Charter. He noted several of the key points of the Charter including the time frames for dealing with enforcement issues.</p> <p>Members asked whether they were permitted to give details of ongoing cases to members of the public, when some of these details might be confidential. The Chair noted that an update could be given provided that no specific information was released. The Corporate Enforcement Officer added that if an enforcement notice has been served then this is a public document in any event.</p> <p>A concern was raised about enforcement in cases of permitted development, but the Planning Control Manager confirmed that formal action cannot be taken where the development is permitted. He further noted that whether something is considered to be domestic use or business use is a matter of fact and degree in the circumstances.</p> <p>The Chair confirmed that members would be informed of what action, if any, was going to be taken in cases which they were involved in.</p> <p>A layout discrepancy was noted at page 70 and it was agreed that this would be addressed.</p> <p>The Planning Control Manager gave a brief overview of what was meant by “permitted development” and it was suggested that Members be given further training on this.</p> <p>A concern was raised that Ward Councillors should be kept appraised of progress of enforcement cases and the Corporate</p>	

	<p>Enforcement Officer confirmed that such updates were already given.</p> <p>The Corporate Enforcement Officer set out that a time limit of 90 days had been placed on enforcement cases to incorporate the possibility of the submission of a planning application. The 90 day limit would also ensure that cases are not left open for several years and acted as a trigger point for either taking formal action or closing the case.</p> <p>The Chair confirmed that the decision to take enforcement action would not be confined simply to cost effectiveness. It was further confirmed that enforcement files are archived indefinitely.</p> <p><b>RESOLVED:</b> That Members approve the formal adoption of the Planning Enforcement Charter.</p>	
50.	<p><b><u>TREE PRESERVATION ORDER – LAND AT BLACKTHORN LANE, OADBY</u></b></p> <p>CF outlined the report with the recommendation to approve this conditional Order, which had been made at Members request. It was noted that no responses had been received and that the tree was still worthy of protection.</p> <p><b>RESOLVED:</b> That the Borough Council of Oadby and Wigston (Land at Blackthorn Lane, Oadby) Tree Preservation Order 2013, which was made provisionally on 11 June 2013, be confirmed.</p>	
51.	<p><b><u>TREE PRESERVATION ORDER – LAND BETWEEN 7 AND 10 ST ANDREWS DRIVE, OADBY</u></b></p> <p>The Planning Control Manager outlined the report. A subsequent application for the site had permitted the removal of one of the trees protected by the Order and therefore it was recommended for approval subject to modification.</p> <p>Those objections received were noted by the Planning Control Manager</p> <p><b>RESOLVED:</b> That the Borough Council of Oadby and Wigston (Land between 7 and 10 St Andrews Drive, Oadby) Tree Preservation Order 2013, which was made provisionally on 11 June 2013, be confirmed subject to the modification set out in the report.</p>	

**The Meeting Closed at 8.50 p.m.**