



Oadby and Wigston Borough Council

TO COUNCILLOR:

L A Bentley (Chair)

G A Boulter

F S Broadley

Mrs L M Broadley (Vice-Chairman)

D M Carter

M H Charlesworth

B Dave

R F Eaton

D A Gamble

Mrs J M Gore

Mrs S Z Haq

Mrs R C Kanabar

J Kaufman

Mrs L Kaufman

Mrs H E Loydall

R E R Morris

Mrs S B Morris

Dear Sir/Madam,

I hereby summon you to attend a meeting of the **DEVELOPMENT CONTROL COMMITTEE** to be held in the Council Offices, Station Road, Wigston on **THURSDAY, 21 AUGUST 2014** at **7.00 pm** for the transaction of the business set out in the Agenda below.

Yours faithfully

Council Offices
Wigston
13 August 2014

Chief Executive

Page No's

1. Apologies for absence
2. Declarations of Substitutions for Committee Members
3. Declarations of Interest
4. Petitions and Deputations
 - a) Nautical William Car Park - Change of Use Application 1 - 2
5. Minutes of Previous Meeting 3 - 9
6. Report of the Development Control Manager 10 - 70
7. Tree Preservation Order TPO/0302 – Land at 16 Knighton Rise, Oadby 71

NOTE TO MEMBERS: Please see overleaf for details of a site visit to be held on the day of the meeting

At 6.15 pm on Thursday, 21 August 2014 to meet at 14 Highfield Drive, Wigston. LE18 1NN in respect of Application Reference 14/00242/FUL. (Agenda Item 1)

SITE VISITS: CODE OF PRACTICE

Members are reminded of the revisions to the Code of Practice agreed at the Development Control Committee meeting held on 11 June 2009.

Please sign our petition

Agenda Item 4a

COPY 14/00272/COO

To stop part change of use of carpark for use for hand

CAR WASH.

RECEIVED 22 JUL 2014

O.W.B.C.
18 JUL 2014
PLANNING

Location Nautical William Pub.

Aylestone Lane, / Rolleston Road

Name	Signature	Address	Postcode
Tammy Hawksley		67, Rolleston Road	LE18 2EQ
Paul Hawksley		Wigston	" "
ARMSTRONG		63 Rolleston Rd	LE18 2EQ
Clair Tones		58 Rolleston Rd	LE18 2EQ
JAN ANDELIJEWSKI		60, Rolleston Road	LE18 2EQ
D James		54 ROLLESTON RD	LE18 2EQ
P. Gibbins		62 ROLLESTON RD	LE18 2EQ
L. Lord		66 ROLLESTON RD	LE18 2EQ
M COPSON		70 ROLLESTON RD	LE18 2EQ
SCOPSON		70 ROLLESTON RD	LE18 2EQ
E TANDOGAN		72 Rolleston Rd	LE18 2EQ
N TANDOGAN		72 Rolleston Rd	"
S. TANDOGAN		72 Rolleston Rd	"
L. TANDOGAN		72 Rolleston Rd.	"
A. BURTON		166 Aylestone Lane	LE18 1BB
L. AITKEN		155, Aylestone Lane	LE18 1BB
S. FERN		149 Aylestone Lane	LE18 1BB
L. Walton		151 Aylestone Lane	LE18 1BB

M. Endall	(M) 145 Aylestone Lane	LE14 1BB
J Cooper	Mrs Cooper 14 Trinity Rd	NE8 6JW
A ENDALL	M Endall 145 Aylestone Lane	LE18 1BB
K. SANDERS	R Sanders 143 Aylestone Lane	LE18 1BB
J CARTER	J Carter 154 Aylestone Lane	LE18 1BA
D. Mayfield	156 Aylestone Lane	LE18 1BA
P. Ellis	156 Aylestone Lane	LE18 1BA
	" " "	" "
R Hayes	152 Aylestone Lane	LE18 1BA
SIMON HAYES	152 Aylestone Lane	LE18 1BA
Beth P-Hayes	152 Aylestone Lane	LE18 1BA
J Aitken	155 Aylestone Lane	LE18 1BD
	" " "	" "
J Aitken	J Aitken "	
Reynolds	143 Ambleside Drive	NE2 9FD

MINUTES OF A MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD AT THE COUNCIL OFFICES, WIGSTON ON WEDNESDAY 23 JULY 2014, COMMENCING AT 7.00 P.M.

IN ATTENDANCE:

Councillor L A Bentley – Chair
Councillor D M Carter – Vice Chair

Councillors: G A Boulter, M H Charlesworth, R F Eaton, J M Gore, S Z Haq, R C Kanabar, J Kaufman, L Kaufman, H E Loydall, R E R Morris, S B Morris

Officers in Attendance: K Garcha, A Court, C Forrett, S Booth, and I Dobson

Others in Attendance: Mrs P McConnell (University of Leicester), Mr S Gasztowiz (Objector)

Min Ref	Narrative	Officer Resp
20.	<u>APOLOGIES FOR ABSENCE</u> F S Broadley, L M Broadley	ID
21.	<u>DECLARATIONS OF SUBSTITUTIONS</u> None.	
22.	<u>DECLARATIONS OF INTEREST</u> Councillor J M Gore declared that she knew some people in attendance in the public gallery but maintained an open mind about the business to be transacted. Councillors G A Boulter, J M Gore and J Kaufman declared that they had attended functions at the University of Leicester in various capacities, but all stated that they maintained an open mind about the business to be transacted.	
23.	<u>PETITIONS AND DEPUTATIONS</u> None.	ID
24.	<u>MINUTES</u> RESOLVED: That the minutes of the previous meeting of the Committee held on 26 June 2014, be taken as read, confirmed and signed.	

	<p>Councillor R F Eaton stated that he had sent his apologies by email for the previous meeting but that they had not been recorded.</p> <p>Councillor D A Gamble stated that the interest declared at the previous meeting related to the Local Plan and not Gilbert Murray Hall and that the time period was 7 years ago and not 5 years ago.</p>	
<p>25.</p>	<p><u>REPORT OF THE DEVELOPMENT CONTROL MANAGER</u></p> <p>The Planning Control Manager summarised what Members were able to consider in determining the certificate of lawful development agenda items. Members heard that they must apply a legal test in relation to the use of the buildings over a ten year period, based on evidence that the applicant has supplied in support of the certificate. He went on to say that the test required Members to consider whether on the balance of probabilities the use of the building is lawful. Members were reminded that planning merits were irrelevant in these cases. It was confirmed that both Counsel and the Planning Control Manager had provided clear advice in each case.</p> <p>1. 12/00435/CLE Beaumont Hall, Stoughton Drive South, Oadby – Certificate of lawful use for halls of residence together with day & residential conferences.</p> <p>Mrs Penny McConnell addressed the Committee on behalf of the applicant. She noted that this application was a certificate of lawfulness of existing use rather than a planning application. This meant that planning policy considerations and other matters were not relevant to the decision and the only issue was whether or not the use was lawful. She advised Members that this was a question of fact and that the burden of proof was the balance of probabilities.</p> <p>Mrs McConnell then proceeded to set out the evidence that the applicant had supplied in support of their application, which she suggested did demonstrate a continuous use of the site for at least 10 years. As there was no evidence to the contrary, she felt that Members should follow Officer recommendation and grant the certificate of lawfulness.</p> <p>Mr Gasztowiz spoke on behalf of the objectors to the University applications. He stated that he had looked carefully at the legal position since the last meeting and emphasised that the decision was to be made by Members based on the evidence before them. He stated that legal advice received was there to assist Members but they must make the decision. He questioned the accuracy of the evidence supplied, which only gave dates of conferences held and not the number of attendees nor the duration of those conferences. He went on to</p>	

read a quote from University literature which stated that the building is primarily used as a halls of residence. He therefore contended that the use as a conference centre was secondary diminutive use, rather than continuous primary use, and the certificate of lawfulness should be refused on this basis.

A Member commented that he wished to abstain from the application based on the process that had been followed at the previous meeting, which was described as wholly inappropriate and not in accordance with the Council's constitution. He went on to say that the applications being brought to this meeting so soon after the last meeting could be perceived as attempting to get a particular resolution.

The Monitoring Officer acknowledged that the situation at the last meeting was unusual in that Members had effectively resolved to do nothing with the applications. She went on to say that the Planning Control Manager had suggested a further vote as a pragmatic and common sense response to the situation. She confirmed that subsequent legal advice had been taken from Counsel in this respect which stated that the Council had acted reasonably. In response to the comment about the timing of the applications, she stated that resolution of this matter quickly was important in preventing a challenge from the University.

The Monitoring Officer commented that Counsel had examined the applicant's evidence and advised as set out in the report. She went on to say that the alternative to accepting the advice is for Members to examine the evidence themselves.

The Committee debated the issue with some Members emphasising that the report provided professional advice from Officers and Counsel which is the best basis for making a decision. It was accepted that Members must place the appropriate weight upon the oral accounts of the speakers.

A Member wanted clarification on the data contained within the report which indicated the number of conferences that had occurred throughout the ten year period. He was concerned around the threshold between primary use and secondary diminutive use.

The Chairman and Vice-Chairman made the point that advice from Counsel and Officers is that on the balance of probabilities the entirety of the data provided amounted to mixed use and that it was not the responsibility of the committee to provide evidence to the contrary.

Upon being put to the vote, the motion to permit was carried.

RESOLVED: That, for the reasons set out in the report, the Certificate of Lawful Development for mixed use for student halls of residence, meeting rooms and conference use, such meeting room and conference use being limited to a non-residential use except during University vacations be granted.

2. 12/00437/CLE – Stamford Hall, Stoughton Drive South, Oadby - Certificate of lawful use for halls of residence together with day & residential conferences

Mrs Penny McConnell addressed the Committee on behalf of the applicant. She informed Members that this application was a certificate of lawfulness of existing use rather than a planning application. This meant that planning policy considerations and other matters were not relevant to the decision and the only issue was whether or not the use was lawful. She advised Members that this was a question of fact and that the burden of proof was the balance of probabilities.

Mrs McConnell then proceeded to set out the evidence that the applicant had supplied in support of their application, which she suggested did demonstrate a continuous use of the site for at least 10 years. As there was no evidence to the contrary, she submitted that Members should follow Officer recommendation and grant the certificate of lawfulness.

Mr Gasztowiz spoke on behalf of the objectors to the University applications. He responded to an earlier point made by a Member that contrary to what was perceived although he was a lawyer he was speaking as a resident and did not benefit from any payment for any of the time spent upon this matter. Mr Gasztowiz suggested that the figures contained within the report did not show year round mixed use. Further, he revealed from research that he had undertaken using schedules supplied by the applicant that 7 days out of 201 term time dates during 2006 had been used for conferencing which he suggested did not amount to year round continuous use. He therefore contended that the use as a conference centre was secondary diminutive use, rather than continuous primary use, and the certificate of lawfulness should be refused on this basis.

The Planning Control Manager stated that Counsel advice indicated that on the balance of probabilities the evidence demonstrates a 10 year period of mixed use.

Some Members expressed concern that it appeared to them that there may have been a period where the use of the

building did not amount to mixed continuous use.

A Motion was proposed to refuse the application.

A Member requested an opinion from the Planning Control Manager as to whether 7 conferences during term time suggested continuous mixed use.

The meeting adjourned at 20:19 to allow for the Planning Control Manager to examine schedules relating to the intensity of use during 2006.

The meeting reconvened at 20:36.

The Planning Control Manager stated that he had examined some of the evidence in relation to use of the building in 2006 and his view, supported by the advice of Counsel was that on the balance of probabilities the 10 year period demonstrated continuous mixed use.

In response to a request from a Member, the Head of Corporate Resources advised the Committee that Counsel had given an advice after his consideration of all of the evidence and as such Counsel had held that the applicant had satisfied the legal test by providing evidence demonstrating continuous mixed use over a ten year period. She went on to say that it was for Members to look at everything in the round, in that they must consider the application and evidence before them, advices from Officers and Counsel and also what was orally being provided by the speakers themselves. She went on to confirm that they were then required to make a judgement based on all of that information and evidence placed and presented to them.

Members discussed the matter and were divided on the issue. The Motion to refuse the application was seconded.

The Motion to refuse the application was defeated by majority.

The substantive Motion to permit the application was tied upon being put to the vote. The Chairman cast a deciding vote in favour of permitting the application.

RESOLVED: That for the reasons set out in the report, a Certificate of Lawful Development for a mixed use for student halls of residence, meeting rooms and conference use, such

meeting room and conference use being limited to a non-residential use except during University vacations.

3. 12/00436/CLE – John Foster Hall,15 Manor Road, Oadby - Certificate of lawful use for halls of residence together with day & residential conferences

Mrs Penny McConnell addressed the Committee on behalf of the applicant. She noted that this application was a certificate of lawfulness of existing use rather than a planning application. This meant that planning policy considerations and other matters were not relevant to the decision and the only issue was whether or not the use was lawful. She advised Members that this was a question of fact and that the burden of proof was the balance of probabilities.

Mrs McConnell then proceeded to set out the evidence that the applicant had supplied in support of their application, which suggests that the planning permissions granted in 2004 and 2005 are unclear as to the permitted lawful use of the buildings and site as a whole. She went on to say that as a result consideration must be given to extrinsic evidence that relates to the previous use of the demolished building and references to controls on car parking in the Officer's report at the Development Control committee meeting in 2004.

Mr Gasztowiz addressed the committee. He informed Members that he agreed with the advice by Counsel to refuse the application.

The Planning Control Manager stated that lawful use of the building is as a halls of residence and that the planning permissions are not ambiguous as suggested by the applicant. He went on to say that it is inescapable that the use has not been in effect for a period of ten years and stated that it was his view and the view of Counsel that the application should be refused.

Upon being put to the vote the Motion to refuse was carried unanimously.

RESOLVED: That, for the reason set out in the report to refuse to grant a Certificate of Lawfulness of existing use or development.

4. 14/00254/HPA – 42 Forryans Close, Wigston – Proposed extension to the rear extending 3.4 metres

beyond the rear wall of the original dwelling house at a maximum height of 3.9 metres with an eaves height of 2.5 metres

The Planning Control and Enforcement Officer summarised the proposal and informed Members that the application had been brought to Committee as it related to a member of staff's property and could not be determined through delegated powers.

Upon being put to the vote the Motion to permit the application was carried.

RESOLVED: That, for the reasons set out in the report, give prior approval for the development.

The Meeting Closed at 9.15 p.m.

Agenda Item 6

	Application Number	Address
Report Items		
1.	14/00242/FUL	14 Highfield Drive Wigston Leicestershire LE18 1NN
2.	14/00250/VAC	Former Site Of St Georges Houses Moat Street Wigston Leicestershire
3.	14/00251/FUL	St Georges Houses Moat Street Wigston Leicestershire
4.	14/00267/FUL	18 Shackerdale Road Wigston Leicestershire LE18 1BQ
5.	14/00272/COU	Nautical William Aylestone Lane Wigston Leicestershire LE18 1BA
6.	14/00274/FUL	23 Bourton Crescent Oadby Leicestershire LE2 4PA
7.	14/00283/VAC	Launde Primary School New Street Oadby Leicester Leicestershire LE2 4LJ

1.	14/00242/FUL	14 Highfield Drive Wigston Leicestershire LE18 1NN
	25 June 2014	Erection of first floor side and rear extensions (Application Revision D)
	CASE OFFICER	Stephen Dukes



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Development Control Committee Meeting
21 August 2014

Site and Location

The application site is a two storey semi-detached property on the corner of Highfield Drive (where it meets Highfield Crescent in Wigston). The pair of semi-detached properties are quite unique and individual in style in that they feature a Mansard style roof, with near vertically hung tiles, whilst other properties in the area feature hipped or gabled roofs.

Description of proposal

The application is for the erection of first floor side and rear extensions over the flat roofed garage and gym/ WC which have previously been built.

The following application amendments have been made since the original submission:

Original plans – first floor side and rear extension which extends over the entirety of the ground floor flat roofed garage area and features a shallow pitched gabled ended roof.

Application amendment A – Corrections to plans to accurately show mansard roof on existing plans.

Application amendment B – Reduction in width of side extension and introduction of pitched roof over part of flat roofed garage.

Application amendment C – Reduction in width of first floor side extension.

Application amendment D – Further reduction in width of side extension – removal of en suite and alterations to roof.

The application has been called to committee at the request of Cllr Linda Broadley on 28 July 2014.

The statutory determination period for this application expires on the 20 August 2014 and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

81/00017/8M – Lounge and kitchen extension and disabled person's bedroom and shower room (Single storey extension to dwelling) – Application approved 7 April 1981 (this is now the kitchen, gym and WC area).

98/00168/8M – Single storey side extension – Application approved 8 May 1998 (this is the wedge shaped garage area).

00/00292/8M – First floor extension to side and rear – Application withdrawn 12 October 2000.

00/00337/8M – First floor side and rear extension – Application approved 24 November 2000 (this has not been implemented).

05/00409/FUL – First floor side and rear extension plus new pitched roof over existing rear extension – Application approved 12 September 2005 (this has not been implemented).

Development Control Committee Meeting
21 August 2014

Consultations

None applicable

Representations

Neighbours have been informed and a press/site notice placed with two letters of representation being received at the time of writing this report (from the same individual). The date for the receipt of comments expires on the 23 July 2014.

The reasons for objection can be summarised as follows:-

- Concerns with the size of the extension and the possibility of the neighbour being overlooked whilst in her garden.
- The property has already been extended. Speculation about the reasons for the extension, i.e. possible business use or further occupants.
- Queries with regards to noise and traffic congestion: this could be a real concern given that the property is on a corner.
- Development not in keeping with surrounding properties.

Relevant Planning Policies

National Planning Policy Framework

Oadby & Wigston Core Strategy

Core Strategy Policy 14 : Design and Construction

Oadby and Wigston Local Plan

Landscape Proposal 1 : Design of new development subject to criteria.

Housing Proposal 17 : Criteria for assessing the suitability of domestic extensions.

Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document

Revisions

Planning Considerations

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

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

The impact of the proposal on the street scene

The application as originally submitted was for a first floor extension over the entirety of the garage, which would be wedge shaped in design and 10.75 metres in width. Concerns were expressed by the Local Planning Authority regarding the wedge shape which would be an incongruous feature which would not fit in with the rest of the street scene. The Borough

Development Control Committee Meeting
21 August 2014

Council's Residential Development Supplementary Planning Document also comments that in prominent locations (such as this case), wedge shaped extensions will rarely be acceptable. Although the existing ground floor garage is wedge shaped, a first floor extension and pitched roof above would increase the prominence of the wedge and result in an untidy design.

It was also advised that the first floor side extension should extend no more than 3 metres in width and that the roof should be of the same style, height and pitch as the roof on the main property. This would ensure an acceptable appearance within the street scene, with an extension which would be subservient to the original property, but would also match the style of the original, with similar mansard style roof. It was noted that in previously approved applications 00/00447/8M and 05/00409/FUL, first floor side and rear extensions had been proposed (these have not been implemented). The side extensions only extended over the gym/ WC area and not over the garage and were only 2 metres in width.

In the revised application currently under consideration (Application amendment D), the side extension has been reduced so that it is no longer wedge shaped and has been reduced to extend 5.364 metres to the side of the original house and featuring the mansard style roof. However, the roof pitch is much shallower than the roof of the main property and therefore the extension would not be in keeping with the existing property and as such would have an unacceptable impact on the character and appearance of the surrounding area.

In addition, the extension is still not considered to be subservient to the main property as the 5.364 metre width would be nearly as wide as the main property which is 5.8 metres in width.

As such, the proposal is considered to have an unacceptable impact on the street scene by reason of its width and roof design which would not be in keeping with the existing property.

The impact of the proposal on neighbouring residential properties.

Impact on no.12 Highfield Drive – the neighbour has objected to the proposed development, commenting that the extension would overlook her rear garden. There would be two windows located on the rear elevation of the extension which do have the potential to overlook the neighbouring garden at no.12. However, the two windows in the rear of the existing property also overlook the rear garden of the attached house at no.12, and the windows in the extension would be located further away from the boundary and therefore it is considered that the development would not cause any additional harm over and above the current level of overlooking. In addition, as the first floor extension is 5.8 metres away from the boundary and extends back 2.8 metres, it would not cause a breach of the 45 degree code from the neighbouring property and is therefore not considered to impact on the sunlight and daylight available to this property.

Impact on no.16 Highfield Drive – the other neighbouring property is positioned around the corner of Highfield Drive, past the junction with Highfield Crescent. An emergency driveway access to 'The Grange' (IOSH site) is located between the two properties. The proposed extension would not extend beyond the rear of this neighbouring property and therefore is not considered to impact on the light available to rear principal room windows. However, the two windows on the rear of the first floor extension could cause overlooking of the rear garden at no.16. It is noted that in approved application 00/00447/8M the rear windows on the first floor extension were for the bathroom, which would be obscure glazed. In approved application 05/00409/FUL, the first floor windows were located on the side elevation, with one of the windows obscure glazed and the other further towards the front of the property and would overlook the street. Given the proposed internal layout (1 Bedroom) of the extension, it is

Development Control Committee Meeting
21 August 2014

possible to condition that the rear windows are fixed and obscure glazed which would overcome this issue.

Conclusion

In summary, it is considered that the proposed development would have an unacceptable impact on the character and appearance of the street scene by reason of its roof design (which would not be in keeping with the existing property), and its excessive width (which would not appear subservient to the original property and would unbalance this unique pair of semi-detached properties to an unacceptable degree). It is therefore recommended that the application be refused.

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 proposed first floor side and rear extension, by reason of its width and roof design, would be unduly dominant in the street scene, resulting in an obtrusive extension which would not be subservient to the original property and the design of which would not be in keeping with the original property. The extension would therefore have a detrimental impact on the visual amenity of the street scene and surrounding area. It is therefore considered that the proposal is contrary to the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, Landscape Proposal 1 and Housing Proposal 17 of the Oadby and Wigston Local Plan, and the Residential Development Supplementary Planning Document (part 2.0 - housing design and part 2.1 - roof design)

Note(s) to Applicant:

- 1 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 (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended). 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.

Development Control Committee Meeting
21 August 2014

- 2 The applicant is advised that a smaller first floor side extension with a roof design which is similar in appearance to that of the original property is likely to be considered favourably by the Local Planning Authority.

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 then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

As this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Telephone 0303 444 5000) or online at www.planningportal.gov.uk/pcs

The Secretary of State can allow a longer period for giving notice of an appeal, but he 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.

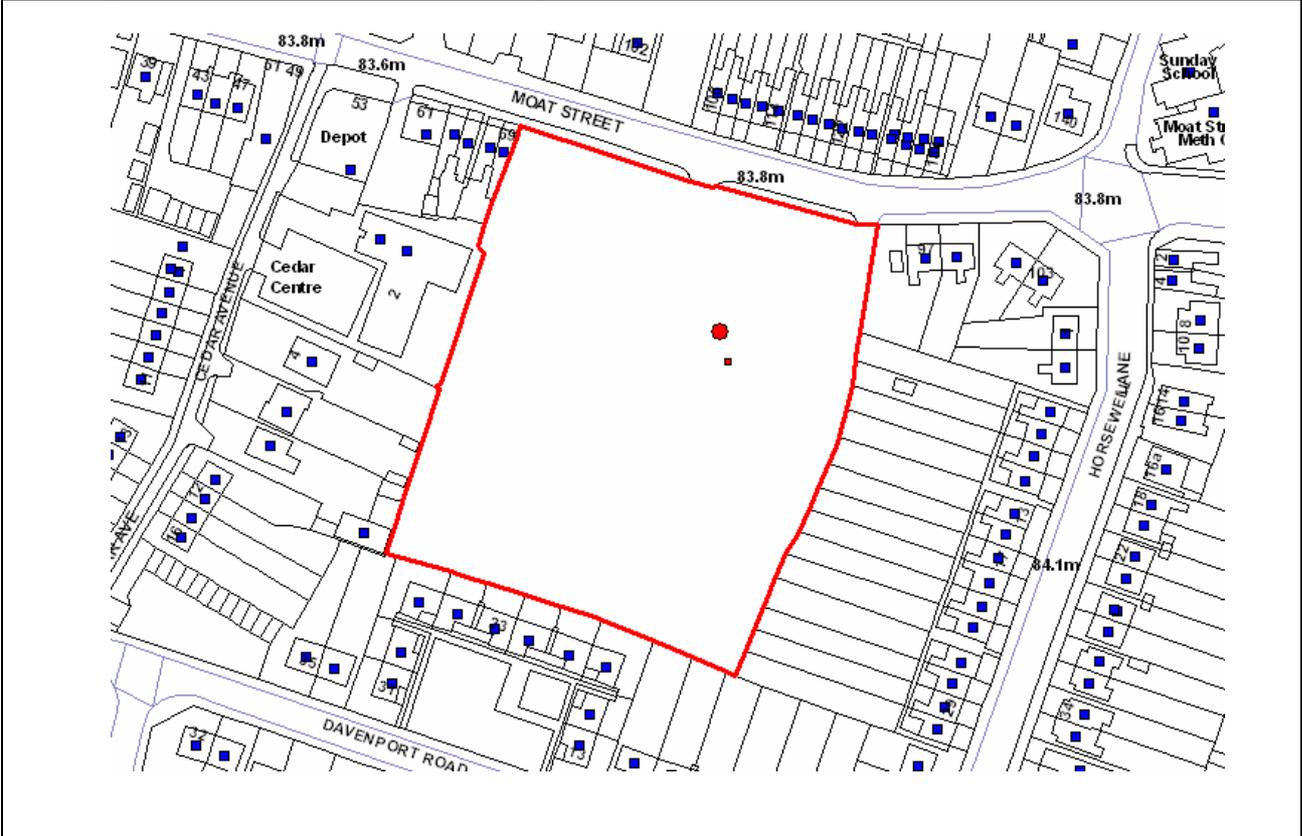
Purchase Notices

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.

Development Control Committee Meeting
21 August 2014

2.	14/00250/VAC	Former Site Of St Georges Houses Moat Street Wigston Leicestershire
	1 July 2014	Section 73 application to vary condition 25 of application reference 13/00119/FUL to extend trading hours to 07:00 to 23:00 seven days a week including Bank Holidays
	CASE OFFICER	Sarah Jinks



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Development Control Committee Meeting
21 August 2014

Site and Location

The application site is located on the south side of Moat Street between the junction of Horsewell Lane and Cedar Avenue. Moat Street is a main route (the B582) between the A5199 and South Wigston. The site is principally surrounded by other residential properties which in the main are two storey in nature. There are bungalows to the south of the site on Davenport Road, with some 3 storey development on Moat Street and the nearby Newgate End. A medical centre also borders the site, accessed off Cedar Avenue.

The Lanes Conservation Area borders the site frontage on Moat Street, but the site lies outside the Conservation Area.

Description of proposal

The erection of 28 dwellings and a new commercial unit was considered at the 15 August 2013 and 5 December 2013 Development Control Committee meetings and approved on the 5 February 2014 subject to the condition (condition 25) that the commercial unit shall not be open to customers outside the hours of 07:00 and 23:00 Monday to Saturday, and 09:00 and 23:00 Sundays and Bank Holidays.

The current application is to vary this condition to extend the trading hours to 07:00 to 23:00 seven days a week, including Bank Holidays.

Work has commenced on the commercial unit, however work on the residential scheme has not yet started.

The statutory determination period for this application expires on the 30 September 2014, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

14/00251/FUL – Provisions for plant & 4No. external air conditioning units within enclosed fenced area – Under consideration

13/00119/FUL - Proposed development to erect 28No. dwellings and a commercial unit – Approved at the Development Control Committee meetings on the 15 August 2013 and 5 December 2013

Consultations

Leicestershire County Council (Highways) – No observations.

OWBC Environmental Health – No significant concerns that the two extra hours opening on Sundays and Bank Holidays will have a material effect on residential properties in the vicinity.

OWBC Planning Policy – No comments have been received at the time of writing this report.

Development Control Committee Meeting
21 August 2014

Representations

Neighbours have been informed and a press/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 31 July 2014.

Councillor Bentley has also made representations on the application. Their comments can be summarised as follows:-

- The opening hours were agreed at the 15 August 2013 Development Control Committee meeting and to have them overturned by a letter that does not provide any evidence that noise will not be generated is not acceptable; and
- The restricted opening hours were to give residents, including the new residencies that are to be built some protection during Sundays and Bank Holidays.

Relevant Planning Policies

National Planning Policy Framework

Oadby & Wigston Core Strategy

- Core Strategy Policy 1 : Spatial Strategy for Development in the Borough of Oadby and Wigston
- Core Strategy Policy 4 : Sustainable Transport and Accessibility
- Core Strategy Policy 8 : Climate Change and Renewable Energy
- Core Strategy Policy 10 : Community Infrastructure
- Core Strategy Policy 11 : Affordable Housing
- Core Strategy Policy 12 : Housing Needs of the Community
- Core Strategy Policy 14 : Design and Construction
- Core Strategy Policy 15 : Landscape and Character
- Core Strategy Policy 17 : Open Space and Facilities for Leisure, Recreation and Tourism

Oadby & Wigston Local Plan

- Landscape Proposal 1 : Design of new development subject to criteria
- Housing Proposal 13 : Prohibiting infill development subject to criteria

Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document
Conservation Areas Supplementary Planning Document
The Lanes Conservation Area Appraisal
The Lanes Conservation Area Development Control Guidance
Oadby & Wigston Landscape Character Assessment (Wigston Gilliver Hill)

Developer Contributions Supplementary Planning Document
Planning for town centres: practice guidance on need, impact and the sequential approach

Development Control Committee Meeting
21 August 2014

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 impact of the proposal on neighbouring residential properties.

The proposed location of the entrance is approximately 23 metres from the nearest windows of the residential properties on Moat Street and approximately 36 metres from the nearest windows of the proposed residential properties within the site.

The proposed car park is approximately 24 metres from the nearest windows of the residential properties on Moat Street and approximately 1 metre from the nearest windows of the proposed residential properties within the site.

The planning application includes a technical note from Noise Solutions Ltd to demonstrate that there will be no adverse noise impact as a result of the extension of the hours of operation. The note states that:

“The proposed extension to opening hours will have no impact on noise emissions from proposed plant, which have been assessed under a separate assessment by NSL (report reference: RF 84403/NIA). Furthermore, there are no changes proposed to approved delivery hours.

The only change to approved activity at the site between 7.00 and 9.00 hours on Sundays/Bank Holidays will be customers using the store. The activity is unlikely to generate a significant level of noise. Furthermore, there is no standard methodology to assess noise from such activities. Given that dominant sources of noise (i.e. plant, deliveries) emanating from the site are to remain unchanged as part of this application, the proposed extension of opening hours is unlikely to give rise to adverse noise impact”.

It is considered that the proposed earlier opening hours would result in more people walking and travelling by vehicle to use the facility early in the morning on Sundays and Bank Holidays when residents would reasonably expect peace and quiet in the locality. However, in this case I am mindful that no objections have been received by local residents to the proposal. I also note that the Environmental Health Officer has no significant concerns with the extra two hours of opening on Sundays and Bank Holidays. For these reasons, the proposal is not considered to be harmful to the living conditions of neighbouring occupiers by way of additional early morning noise on Sundays and Bank Holidays. Furthermore, the proposed residential properties within the site would be aware of the revised opening hours prior to purchase/occupation of the new properties.

Conclusion

As this is a section 73 application to vary a condition, it will create a new planning permission for the site. As there has been no significant change in planning policy, all of the issues raised and considered are still relevant and it is considered that the overall development is acceptable subject to all of the requirements of the previous permission. Therefore, a new section 106 agreement will be required covering all the matters required from permission 13/00119/FUL.

In light of the above considerations, particularly the residential amenity of local residents, it is recommended that the application is approved.

Development Control Committee Meeting
21 August 2014

Other Matters

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

- a) Subject to the completion of a suitable Section 106 Agreement covering the following matters:

- Affordable Housing
- On-site open space and its maintenance
- Traffic Regulation Order (if not already resolved)
- Management Maintenance Company
- OWBC & LCC monitoring costs

by the 16 September 2014 (or any such alternative date extending the time period for the determination of the application as first agreed in writing by both the Applicant and the Local Planning Authority) and for the reasons set out in the above report, then Permit subject to the following conditions:

- 1 Prior to the commencement of the residential development details of all materials to be used externally on the residential development shall be submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out using the agreed materials.
Reason: To safeguard the character and appearance of the building and its surroundings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 2 The commercial development shall only be carried out in accordance with the agreed materials as detailed in the email from the Agent dated 18 July 2014 unless otherwise first agreed in writing with the Local Planning Authority.
Reason: To safeguard the character and appearance of the building and its surroundings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 3 Prior to the commencement of the residential development a detailed scheme of landscaping for that part of the site shall be submitted to and approved in writing by the Local Planning Authority.

Development Control Committee Meeting
21 August 2014

Reason: To ensure that a landscaping scheme is provided to enhance the development and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 4 The landscaping scheme for the commercial development part of the site shall only be carried out in accordance with the agreed scheme of landscaping as detailed in the email from the Agent dated 18 July 2014 unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To ensure that a landscaping scheme is provided to enhance the development and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 5 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the dwelling it relates to or the completion of the residential development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that an approved landscaping scheme is implemented in a speedy and diligent way and that initial plant losses are overcome in the interests of the visual amenities of the locality and the occupiers of adjacent buildings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 6 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the commercial unit or the completion of the commercial unit, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that an approved landscaping scheme is implemented in a speedy and diligent way and that initial plant losses are overcome in the interests of the visual amenities of the locality and the occupiers of adjacent buildings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 7 The boundary treatment for the commercial development shall only be carried out in accordance with the agreed details as detailed in the email from the Agent dated 18 July 2014 unless otherwise first agreed in writing with the Local Planning Authority. The approved boundary treatment shall be completed prior to the first occupation of the building.

Reason: To ensure that an adequate boundary treatment is provided to safeguard the visual amenities of the area, the amenities of the future occupiers of the dwelling and the occupiers of adjoining properties and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14 and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

Development Control Committee Meeting
21 August 2014

- 8 Prior to the commencement of residential development a detailed plan (or plans) indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment shall be completed prior to the first occupation of the dwelling to which it relates.
Reason: To ensure that a adequate boundary treatment is provided to safeguard the visual amenities of the area, the amenities of the future occupiers of the dwelling and the occupiers of adjoining properties and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14 and Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 9 Prior to the first occupation of each dwelling hereby granted the access, and parking and turning areas shown on the approved plan(s) relevant to that property shall be provided in a bound material and thereafter shall be made available at all times for their designated purposes.
Reason: As recommended by Leicestershire County Council (Highways) 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.
- 10 Prior to the first occupation of the commercial unit hereby granted, the access and parking areas shown on the approved plan(s) relevant to the commercial unit shall be provided in a bound material (with the parking bays marked out on the ground) and thereafter shall be made available at all times for their designated purposes.
Reason: As recommended by Leicestershire County Council (Highways) 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.
- 11 Prior to the first occupation of any building hereby granted permission the existing vehicular access shall be permanently closed and the access crossing shall be reinstated as verge/footway in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority.
Reason: As recommended by Leicestershire County Council (Highways) 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.
- 12 Prior to the first occupation of any building hereby granted permission visibility splays of 2.4 metres by 43 metres shall be provided each side of the access with nothing placed or allowed to remain forward of the said splays that exceeds 600mm in height above the adjacent carriageway unless otherwise first agreed in writing by the Local Planning Authority.
Reason: As recommended by Leicestershire County Council (Highways) in the interests of highway (and pedestrian) safety and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policy 4.
- 13 Unless otherwise first agreed in writing by the Local Planning Authority for the period of the construction of the development wheel cleansing facilities shall be provided within the site and all vehicles shall have their tyres and wheels cleaned (as may be necessary) before leaving onto the public highway.
Reason: To reduce the possibility of deleterious material (mud/stones etc) being deposited on the public highway during construction works 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.

Development Control Committee Meeting
21 August 2014

- 14 Unless otherwise first agreed in writing by the Local Planning Authority during the period of construction works vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.
Reason: To ensure that adequate off-street parking provision is made within the site and to reduce the possibilities on-street parking problems in the area during construction works and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policy 4.
- 15 No gates shall be erected to the vehicular accesses (or any of the private accesses) unless otherwise agreed in writing by the Local Planning Authority.
Reason: To enable a vehicle to stand clear of any highway in order to protect the free and safe passage of traffic, including pedestrians, on any public highway.
- 16 The scheme for the disposal of foul sewerage and surface water drainage for the site shall only be carried out in accordance with the agreed scheme as detailed in the email from the agent dated 18 July 2014 unless otherwise first agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the first dwelling and, unless otherwise first agreed in writing by the Local Planning Authority, 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.
- 17 Prior to commencement of the residential development hereby permitted a contaminated land assessment and associated remedial strategy shall be submitted to and approved in writing by the Local Planning Authority (LPA) and the measures approved in that scheme shall be fully implemented. The completed scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically in writing:
- a) a desk study. The desk study shall detail the history of the site uses and propose a site investigation strategy based on the relevant information discovered by the desk study. The strategy shall be approved by the LPA prior to any site investigations commencing on site.
 - b) the site investigation, including relevant soil, soil gas, surface and groundwater sampling, which shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
 - c) a site investigation report detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the LPA as required prior to any remediation commencing on site. The remediation works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.
Reason: In order to safeguard human health and the environment and identify potential contamination on-site and the potential for off-site migration as recommended by the Environmental Health Manager and in accordance with the aims and objectives of the National Planning Policy Framework

Development Control Committee Meeting
21 August 2014

- 18 The contaminated land assessment and associated remedial strategy for the commercial development shall only be carried out in accordance with the agreed measures as detailed in the email from the Agent dated 18 July 2014 unless otherwise first agreed in writing with the Local Planning Authority.
Reason: In order to safeguard human health and the environment and identify potential contamination on-site and the potential for off-site migration as recommended by the Environmental Health Manager and in accordance with the aims and objectives of the National Planning Policy Framework
- 19 If during the course of development, contamination not previously anticipated or previously identified is found to be present on the site, then no further development (unless otherwise first agreed in writing with the Local Planning Authority) shall be carried out until a method statement detailing how and when the contamination is to be dealt with has been submitted to and approved in writing by the Local Planning Authority. The contamination shall then be dealt with in accordance with the approved details.
Reason: In order to safeguard human health and the environment and identify potential contamination on-site and the potential for off-site migration as recommended by the Environmental Health Manager and in accordance with the aims and objectives of the National Planning Policy Framework.
- 20 Upon completion of the remediation works a verification report shall be submitted to and approved by the Local Planning Authority. The verification report shall include details of the proposed remediation works and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the verification report together with the necessary documentation detailing what waste materials have been removed from the site.
Reason: In order to safeguard human health and the environment and identify potential contamination on-site and the potential for off-site migration as recommended by the Environmental Health Manager and in accordance with the aims and objectives of the National Planning Policy Framework.
- 21 Notwithstanding the provisions of Classes A, B, and E of Schedule 2 Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended by Statutory Instrument 2008 No.2362), or any Order revoking and re-enacting that Order, the dwelling hereby permitted shall not be altered or extended (including the installation of dormer windows and other roof alterations normally permitted by Class B), no new windows shall be inserted, and no buildings or structures shall be erected within the curtilage of the dwelling unless planning permission has first been granted by the Local Planning Authority.
Reason: To safeguard the character and appearance of the surrounding area and in the interest of the amenities of neighbouring properties and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policies 14 and 15 and Housing Proposal 13 and Landscape Proposal 1 of the Oadby and Wigston Local Plan and the Residential Development Supplementary Planning Document.
- 22 The programme of archaeological work shall only be carried out in accordance with the agreed written scheme of investigation as detailed in the email from the Agent dated 18 July 2014 unless otherwise first agreed in writing by the Local Planning Authority.
Reason: To ensure that no development shall take place which may adversely affect any items of archaeological interest without adequate prior investigation in accordance with

Development Control Committee Meeting
21 August 2014

the aims and objectives of the National Planning Policy Framework and Core Strategy Policy 15.

- 23 No operations authorised or required under this permission (including any use of machinery, or vehicles) shall be carried out and no deliveries taken at or despatched from the site except between the hours of 7.00am and 6.00pm Monday to Saturday, 9.00am to 6.00pm on Sundays or Bank Holidays.
Reason: In the interests of the amenities of local residents and the locality in general and in compliance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 24 Prior to the commencement of the residential development details of all road construction, street lighting, and a satisfactory means of draining roads to an acceptable outfall shall be submitted to and approved in writing by the Local Planning Authority and the works shall be completed in accordance with the approved details.
Reason: To ensure that the unadopted roads are constructed to an acceptable standard and in accordance with the aims and objectives of the National Planning Policy Framework and Core Strategy Policy 4.
- 25 The commercial unit hereby permitted shall not be open to customers between 23:00 and 07:00 hours.
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.
- 26 Notwithstanding the submitted details and prior to the first occupation of the first dwelling hereby granted permission, full details of the public art feature shall be submitted to and approved in writing by the Local Planning Authority. The Approved feature shall be provided prior to the first occupation of the 22nd dwelling and unless otherwise first agreed in writing by the Local Planning Authority, maintained as such for the life of the development.
Reason: To safeguard the visual amenities of the area in accordance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 27 The secure cycle parking provision for the commercial development shall only be carried out in accordance with the agreed details as detailed in the email from the Agent dated 18 July 2014 unless otherwise first agreed in writing by the Local Planning Authority. The approved details shall be provided prior to the first occupation of the building and unless otherwise first agreed in writing by the Local Planning Authority maintained as such for the life of the development.
Reason: As recommended by Leicestershire County Council (Highways) and 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.
- 28 Prior to the commencement of the residential development, details of how measures are to be taken to prevent vehicular access (such as bollards or other features) to the central paved area shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the 22nd dwelling and shall be maintained as such for the life of the development unless otherwise first agreed in writing by the Local Planning Authority.
Reason: To prevent indiscriminate parking and to safeguard the visual amenities of the area in accordance with Landscape Proposal 1 of the Oadby and Wigston Local Plan.

Development Control Committee Meeting
21 August 2014

29 Prior to the first occupation of the 22nd dwelling double yellow lines shall be marked out on the ground on the non-adopted road and thereafter maintained as such for the life of the development unless otherwise first agreed in writing by the Local Planning Authority.

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.

30 Unless otherwise first approved in writing (by means of a Non-material Amendment/Minor Material Amendment or a new Planning Permission) by the Local Planning Authority the development hereby permitted shall be carried out in accordance with the approved plans and particulars listed in the schedule below.

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

Note(s) to Applicant:

- 1 For the avoidance of doubt this permission relates to the following plans and particulars:-
 - Plans and particulars approved under planning permissions 13/00119/FUL and the email from the Case Officer dated 7 February 2014.
- 2 You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section.
- 3 If the proposal involves the carrying out of building work along or close to the boundary, you are advised that under the Party Wall Etc. Act 1996 you have a duty to give notice to the adjoining owner of your intentions before commencing this work.
- 4 For the avoidance of doubt this permission does not authorise any development outside the application site including any foundation, footings, fascias, eaves, soffits, verges or guttering.
- 5 You are advised that any amendments to the approved plans will require either a Non-Material amendment application, a Minor Material Amendment application or a new planning application. If this is the case then you should allow at least 8 weeks before the intended start date to gain approval for such amendments. Further advice can be obtained by contacting the Planning Section of the Council on any amendments (internal or external).
- 6 This permission requires you to submit further details to the Local Planning Authority on the proposal prior to the commencement of works on site. There is a fee payable to the Local Planning Authority when a request is made for the discharge of one or more conditions on the same permission or for confirmation of compliance with a condition or conditions. At the time of writing, the fee is payable per written request to discharge conditions not per condition and therefore any number of conditions may be included on a single request. The fee for such a request associated with this permission (at the time of this decision notice) is £97. The fee must be paid when the request is made. The Local Planning Authority has a statutory period of 8 weeks for the determination of such requests.

Development Control Committee Meeting
21 August 2014

- 7 This decision is also conditional upon the terms of the planning agreement which has been entered into by the developer and the Council under Section 106 of the Town and Country Planning Act 1990 (as amended). The Agreement runs with the land and not to any particular person having an interest therein.
- 8 The Applicant(s) is advised to note and act upon as necessary the comments of Western Power Distribution as set out in the correspondence dated 19 June 2013.
- 9 Nesting birds and bats, their roosts and their access to these roosts, are protected under the Wildlife and Countryside Act 1981 and the Conservation (Natural Habitat etc) Regulation 1994. Therefore, should birds or bats be present, works should be deferred until the late summer/autumn.
- 10 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Leicestershire County Council's Southern Area Manager - (telephone 0116 3052202).
- 11 If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development. Due to the nature of the site and limited parking for existing properties to Moat Street and proposed units 7-17, as part of the adoption process, a double yellow line system to the access road and turning head will be required. If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980.

The proposed access roads serving the car parking do not conform to an acceptable standard for adoption and therefore they will NOT be considered for adoption and future maintenance by the Highway Authority. The Highway Authority will, however, serve APCs in respect of all plots served by all the private roads within the development in accordance with Section 219 of the Highways Act 1980.

Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted. For further details see www.leics.gov.uk/htd or telephone 0116 305 6782.

- 12 Application as submitted was considered to be acceptable and therefore discussion with the applicant to seek an acceptable solution was not considered necessary in making this decision. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

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.

Development Control Committee Meeting
21 August 2014

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 must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Telephone 0303 444 5000) or online at www.planningportal.gov.uk/pcs.

The Secretary of State can allow a longer period for giving notice of an appeal, but he 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.

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.

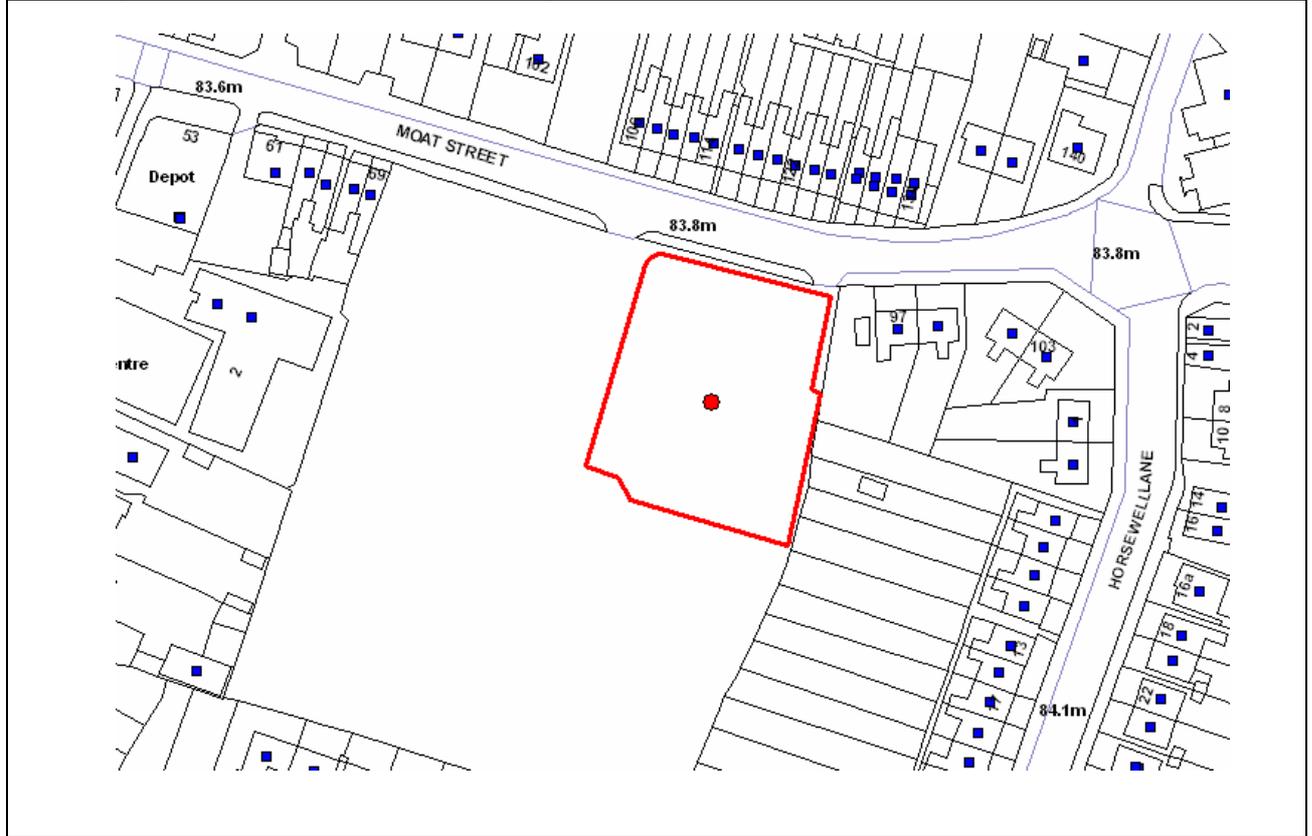
In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions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

b) If the Section 106 Agreement is not completed by the 16 September 2014 (or any such alternative date extending the time period for the determination of the application as first agreed in writing by both the Applicant and the Local Planning Authority) the application be Refused on the basis that the development fails to provide the necessary infrastructure listed below required to mitigate the development

- **Affordable Housing**
- **On-site open space and its maintenance**
- **Traffic Regulation Order (if not already resolved)**
- **Management Maintenance Company**
- **OWBC & LCC monitoring costs**

Development Control Committee Meeting
21 August 2014

3	14/00251/FUL	St Georges Houses Moat Street Wigston Leicestershire
	21 July 2014	Provisions for refrigeration plant and 3 No. external air conditioning units within enclosed fenced area
	CASE OFFICER	Sarah Jinks



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Development Control Committee Meeting
21 August 2014

Site and Location

The application site is located on the south side of Moat Street between the junction of Horsewell Lane and Cedar Avenue. Moat Street is a main route (the B582) between the A5199 and South Wigston. The site is principally surrounded by other residential properties which in the main are two storey in nature. There are bungalows to the south of the site on Davenport Road, with some 3 storey development on Moat Street and the nearby Newgate End. A medical centre also borders the site, accessed off Cedar Avenue.

The Lanes Conservation Area borders the site frontage on Moat Street, but the site lies outside the Conservation Area.

Description of proposal

The erection of 28 dwellings and a new commercial unit was considered at the 15 August 2013 and 5 December 2013 Development Control Committee meetings and approved on the 5 February 2014 following the completion of a section 106 agreement.

The current application proposes the provision of a refrigeration plant and 3 air conditioning units within an enclosed fenced area for the commercial unit along the eastern façade of the building. The height of the fence measures 2.8 metres.

The proposed refrigeration plant will operate 24 hours a day; however the plant will run at a reduced setting during the night-time period (23.00 – 07.00 hours) when the proposed store is closed. With the exception of the cash office air conditioning unit which will run 24 hours a day, the air conditioning units will operate only during the daytime period when the commercial unit is open.

Absorptive acoustic wall lining is to be fitted to the store façade within the plant area to minimise the effects of reflected sound.

A Plant Noise Assessment Planning Report has been submitted with the application.

The statutory determination period for this application expires on the 15 September 2014, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

14/00250/VAC - Section 73 application to vary condition 25 of application reference 13/00119/FUL to extend trading hours to 07:00 to 23:00 seven days a week including Bank Holidays – Under consideration

13/00119/FUL - Proposed development to erect 28No. dwellings and a commercial unit – Approved at the Development Control Committee meetings on the 15 August 2013 and 5 December 2013

Development Control Committee Meeting
21 August 2014

Consultations

Wigston Civic Society – No comments have been received at the time of writing this report.

OWBC Environmental Health – “The proposed location of the air conditioning units is approximately 22 – 45 metres from the nearest residential properties (building, not the garden). There is therefore potential for neighbouring properties to be affected by the noise of these units, particularly at night. The planning application includes a report on the likely noise levels that will be emitted by these units and the potential impact on the nearby residential properties.

The report used the methodology stated in the British Standard, *BS4142, Method for rating industrial noise affecting mixed residential and industrial areas*. This assessment considers the current background levels at night and compared this to the predicted noise level at the nearest residential property (building, not the garden).

The following is an extract from BS4142 explaining the methodology:

Assess the likelihood of complaints by subtracting the measured background noise level from the rating level.

The greater this difference the greater the likelihood of complaints.

A difference of around +10 dB or more indicates that complaints are likely.

A difference of around + 5 dB is of marginal significance.

If the rating level is more than 10 dB below the measured background noise level then this is a positive indication that complaints are unlikely.

The results and conclusions of the assessment conducted are shown below:

Table 2 Assessment of predicted noise levels at receptor R1

Period	Predicted noise rating level at receptor, L_{Aeq} (dB)	Design criterion, L_{Aeq} (dB)	Difference (dB)
Daytime (07.00 - 23.00 hours)	32	36	-4
Night-time (23.00 - 07.00 hours)	22	22	0

Noise level predictions

Plant	Source noise level		Distance correction		Façade correction (dB)	Acoustic treatment to AC units (dB)	Resultant at receptor, L_{Aeq} (dB)
	Noise level, L_{Aeq} (dB)	Reference distance (m)	Distance to receptor (m)	Correction (dB)			
2No. Sales floor AC units (daytime only)	55	1	22	-27	0	0	28
1No. Cash office AC (24/7)	48	1	22	-27	0	0	21
Refrigeration condenser (daytime)	36	10	24	-8	0		28
Refrigeration condenser (night-time)	24	10	24	-8	0		16

Cumulative daytime noise level: 32
 Cumulative night-time noise level: 22

The noise level predictions demonstrate that cumulative noise emissions from the proposed external plant will comply with the emissions criteria as outlined in Section 4.0 during both the daytime and night-time periods, inclusive of suitable acoustic wall lining installed behind the units. No other mitigation measures will be required to reduce noise emissions.

Development Control Committee Meeting
21 August 2014

The assessment suggests that the installation of these units is unlikely to cause a noise nuisance to neighbouring properties as the difference between the background and predicted levels is 0 or negative. A similar installation has been in place at the Sainsbury's store at the Royal Oak on Leicester Road, Wigston for several months and as yet no complaints have been received relating to noise nuisance.

I would still recommend that a condition is placed on any planning permission, if granted. The purpose of having a condition limiting the noise from the operation to set levels, would be to ensure that if the predicted levels are inaccurate and complaints of noise arise, there are already controls in place to deal with it.

A possible condition could be based on the following wording:

The difference between the background noise levels and the rating level of the external plant equipment at the nearest residential property shall not meet or exceed +5 dB(A).

This wording would be in accordance with BS 4142 guidance and as the noise assessment submitted states that this will be met it is a reasonable condition. This level could be lowered if felt appropriate. As the assessment predicts that there will be no difference between the predicted and background levels at night this could be seen as reasonable given the close proximity of the units to the residential properties.

In addition the following is recommended as guidance to applicants:

Although it is sensible regulation to deal with potential nuisance through the planning process, it should be made clear that if planning permission is granted this does not limit the Council's ability to take action where a nuisance is being caused. If it is determined that a statutory nuisance exists due to the activity of a trade premise and the business is not using the best practical means to prevent problems occurring, the Council have a legal duty to serve a notice to abate the nuisance. Breach of an abatement notice can result in fines of up to £20,000. The applicant should be advised of this so that they are fully aware that it is in their interests not to cause any nuisance".

Representations

Neighbours have been informed and a press/site notice placed with no letters of representation being received at the time of writing this report. The date for the receipt of comments expires on the 21 August 2014.

Councillors Mr Bentley and Mr Eaton have made representations on the application. Their comments can be summarised as follows:-

- The siting of the units is considered to be inappropriate with reference to the proximity of the existing houses;
- It is quite clear that the noise levels will be in addition to the existing background noise levels and as such will be cumulative;
- A low level noise when propagated constantly can be considered a noise nuisance and to have some on this plant running 24 hours a day in unacceptable; and
- It would be more appropriate to site and design these units to produce a much lesser affect than described in the noise assessment which appears to be totally biased to the developer.

Development Control Committee Meeting
21 August 2014

Relevant Planning Policies

National Planning Policy Framework

Oadby & Wigston Core Strategy

- Core Strategy Policy 1 : Spatial Strategy for Development in the Borough of Oadby and Wigston
Core Strategy Policy 14 : Design and Construction
Core Strategy Policy 15 : Landscape and Character

Oadby & Wigston Local Plan

- Landscape Proposal 1 : Design of new development subject to criteria

Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document
Conservation Areas Supplementary Planning Document
The Lanes Conservation Area Appraisal
The Lanes Conservation Area Development Control Guidance
Oadby & Wigston Landscape Character Assessment (Wigston Gilliver Hill)

Planning Considerations

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

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

The impact of the proposal on the street scene

The proposed refrigeration plant and 3 No. air conditioning units would be sited on the rear elevation to minimise the detrimental impact. Furthermore, the area will be screened by a fence, therefore the proposed plant and air conditioning units are not considered to have a detrimental impact on the street scene.

Given the location of the fence to the rear of the building, the fence is considered to have minimal impact on the locality.

The impact of the proposal on neighbouring residential properties.

The proposed location of the refrigeration plant and air conditioning units is approximately 22 metres from the nearest windows of the residential properties on Moat Street. There is a concern with the potential for neighbouring properties to be affected by noise, particularly at night.

The planning application includes a report on the likely noise levels that will be emitted by the refrigeration plant and air conditioning units and the potential impact on the nearby residential properties. The report assessed the current background noise levels at night and compared this to the predicted noise level at 97 Moat Street which is approximately 22 metres north east of the proposed plant area with direct line of sight.

Development Control Committee Meeting
21 August 2014

The assessment suggests that the installation of these units is unlikely to cause a noise nuisance to neighbouring properties as the difference between the background and predicted levels is 0 or negative.

The Environmental Health Officer has recommended that a condition is imposed limiting the noise from the operation to a set level to ensure that if the predicted noise levels are inaccurate and if complaints of noise arise, there are controls in place to deal with it. A condition has been imposed restricting the level of noise from the refrigeration plant and air conditioning units to 5Db(A).

Conclusion

In light of the above considerations, it is not considered that the proposals have any material harm to the amenities of neighbouring properties or to the character of the area.

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 The difference between the background noise levels and the rating level of the external plant equipment at the nearest residential property shall not meet or exceed +5 dB(A) unless otherwise first agreed in writing by the Local Planning Authority.
Reason: In the interests of the amenity of the adjoining residential properties and the locality in general in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14 and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 3 The fencing (screening the plant equipment) shall be erected prior to the first occupation of the commercial unit.
Reason: To safeguard the visual amenities of the area and the occupiers of adjoining properties and in accordance with the aims and objectives of the National Planning Policy

Development Control Committee Meeting
21 August 2014

Framework, Core Strategy Policy 14 and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 4 The acoustic wall lining to the store façade (within the plant area) shall be installed prior to the first use or the plant/air conditioning units.
Reason: In the interests of the amenity of the adjoining residential properties and the locality in general in accordance in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14 and Landscape Proposal 1 of the Oadby and Wigston Local Plan.
- 5 Unless otherwise first approved in writing (by means of a Non-material Amendment/Minor Material Amendment or a new Planning Permission) by the Local Planning Authority the development hereby permitted shall be carried out in accordance with the approved plans and particulars listed in the schedule below.
Reason: For the avoidance of doubt as to what is permitted by this permission and in the interests of proper planning.

Note(s) to Applicant:

- 1 For the avoidance of doubt this permission relates to the following plans and particulars:-
 - Location Plan Site Ref. 8309 - Walbrook 201 received by the Local Planning Authority on the 18 June 2014
 - Site Plan Site Ref. 8309 - Walbrook 200 received by the Local Planning Authority on the 18 June 2014
 - Proposed Ground Floor Plan Site Ref. 11454 - Walbrook 205 Rev. A received by the Local Planning Authority on the 21 July 2014
 - Proposed Plant Detail Site Ref. 11454 - Walbrook 221 Rev. A received by the Local Planning Authority on the 21 July 2014
 - Proposed Plant Detail Site Ref. 8309 - Walbrook 221 received by the Local Planning Authority on the 18 June 2014
- 2 You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section.
- 3 If the proposal involves the carrying out of building work along or close to the boundary, you are advised that under the Party Wall Etc. Act 1996 you have a duty to give notice to the adjoining owner of your intentions before commencing this work.
- 4 For the avoidance of doubt this permission does not authorise any development outside the application site including any foundation, footings, fascias, eaves, soffits, verges or guttering.
- 5 You are advised that any amendments to the approved plans will require either a Non-Material amendment application, a Minor Material Amendment application or a new planning application. If this is the case then you should allow at least 8 weeks before the intended start date to gain approval for such amendments. Further advice can be obtained by contacting the Planning Section of the Council on any amendments (internal or external).

Development Control Committee Meeting
21 August 2014

- 6 The Applicant(s) is /are advised to note and act upon as necessary the comments of the Environmental Health Officer as set out in the attached correspondence dated 29th July 2014.
- 7 For the avoidance of doubt, this does not convey consent for the installation of an ATM shown on the submitted plans for which separate planning permission must be obtained.
- 8 The Application as submitted was considered to be acceptable and therefore discussion with the applicant to seek an acceptable solution was not considered necessary in making this decision. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

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 must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Telephone 0303 444 5000) or online at www.planningportal.gov.uk/pcs.

The Secretary of State can allow a longer period for giving notice of an appeal, but he 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.

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.

Development Control Committee Meeting
21 August 2014

4	14/00267/FUL	18 Shackerdale Road Wigston Leicestershire LE18 1BQ
	26 June 2014	Retention of two storey side and rear extensions, canopy to front and single storey rear extensions. Retention and alteration of rear dormer and proposed single storey rear extension. (Application Revision B)
	CASE OFFICER	Stephen Dukes



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Development Control Committee Meeting
21 August 2014

Site and Location

The application site is a semi-detached two storey house on the west side of Shackerdale Road in an area characterised by similar semi-detached properties, some of which have been extended.

Description of proposal

The proposal is for the retention of the two storey side and rear extensions, a canopy to the front and single storey rear extensions. The application is also for the retention and alteration of the rear dormer and an additional proposed single storey rear extension.

Planning permission was previously granted for extensions to the property in 2012 (application 12/00450/FUL). However, the development was not built in accordance with the plans, in that instead of a small pitched roof dormer on the rear, a large flat dormer was erected which wrapped around the rear and side of the roof.

In 2013, the applicant applied to retain the development as built. Revised plans were submitted as part of this application which proposed alterations to the height and width of the box dormer. However, the application was subsequently refused on the basis that the retention of the box dormer (taking into account the proposed alterations) as this failed to take into account the design of the existing property and the character and appearance of the surrounding area. In addition, the box dormer was considered to have an adverse effect on the amenity of neighbouring properties by reason of its overbearing nature given its size and siting.

An enforcement notice was subsequently issued which required the demolition of the extensions and the removal of all materials from the site.

In 2014, the applicant applied to retain the extensions once again, with just minor alterations to the dormer from the development which had been built. The application was withdrawn as the Local Planning Authority advised that it could refuse to determine an application which was seeking to retain a development which was the subject of a pre-existing enforcement notice. The applicant was also advised that a smaller dormer which would not be visible from the front elevation was likely to be acceptable.

In this current application, the submitted plans again showed the retention of the development as built with minor alterations. However, amended plans have now been submitted (Revisions A and B) which show a smaller pitched roof dormer.

The application has been called to committee at the request of Cllr Helen Loydall on 15 July 2014.

The statutory determination period for this application expires on the 21 August 2014 and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Development Control Committee Meeting
21 August 2014

Relevant Planning History

09/00133/FUL - Erection of two storey side & rear extension (Rev A) – Application permitted 6 July 2009.

12/00450/FUL - Erection of a two storey side & rear extensions, single storey rear extensions & canopy with pillars to front elevation & loft conversion with rear facing dormer (Rev A) – Application permitted 3 April 2013.

13/00424/FUL - Retention of canopy to front, single and two storey side and rear extensions and retention and alterations to loft conversion and rear facing dormer window (Rev B) – Application refused 20 December 2013.

Enforcement Notice – 13/00165/UNAWKS – Issued 23 December 2013 – required the following:

- Demolish the canopy to the front
- Demolish the single and two storey side and rear extensions
- Remove the rear facing box dormer
- Remove all materials resulting from compliance with requirements (a, b and c) from the land edged in red.

The time for compliance was 4 months after the notice took effect. The notice took effect on 27 January 2014.

14/00080/FUL - Retention of two storey side & rear extensions, canopy to front, single storey rear extensions. Retention & alteration of rear dormer & proposed single storey rear extension – Application withdrawn 14 May 2014.

Consultations

Leicestershire County Council (Highways) – No observations

Representations

Neighbours have been informed and a press/site notice placed with one letter of representation being received at the time of writing this report. The date for the receipt of comments expired on the 4 August 2014.

The reasons for objection can be summarised as follows: -

- The gap between number 20 and the extension of number 18 Shackerdale Road is not of sufficient size to maintain the walls of either property.
- The extension has been built on the boundary line. The surplus mortar from the building of the wall has fallen between the cavities of the two properties and is now covering the blue bricks (damp course) of number 20. The complainant comments that he has received advice that this may in the future cause issues of damp within the property.
- The loft dormer is not built to the plans that have been submitted.
- The overall extension/dormer is not in keeping with the surrounding properties.

Development Control Committee Meeting
21 August 2014

Relevant Planning Policies

National Planning Policy Framework

Oadby & Wigston Core Strategy

Core Strategy Policy 14 : Design and Construction

Oadby and Wigston Local Plan

Landscape Proposal 1 : Design of new development subject to criteria.

Housing Proposal 17 : Criteria for assessing the suitability of domestic extensions.

Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document

Planning Considerations

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

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

The impact of the proposal on the street scene

The two storey side extension has previously been approved and has been built according to the approved plans for application 12/00450/FUL. The canopy to the front is also similar to what has previously been approved but is now supported by brackets rather than pillars. The two storey and single storey rear extensions also resemble what has previously been approved in application 12/00450/FUL.

The proposed rear dormer shown in the plans in Application amendments A and B complies with the Residential Development Supplementary Planning Document in that it has been reduced to a minimum size, it only protrudes from the rear roof slope and it features a pitched roof rather than a flat roof. Although the dormer is not set 0.5 metres below the ridge level, it would no longer be visible within the street scene and the design is now sympathetic to the design of the main property, with the pitches of the dormer being at the same angle as the pitch of the original roof. Two Velux rooflights have been added to the front elevation: one in the roof of the original property and one in the two storey side extension. The larger rooflight in the main property is classed as permitted development.

The impact of the development on the street scene is now considered to be acceptable, subject to what has actually been built being altered to reflect the plans in application amendment B.

The impact of the proposal on neighbouring residential properties.

An additional single storey rear extension, extending a further 2.4 metres beyond the previously approved 3.5 metre extension is also proposed. This would breach the 45 degree code from the kitchen window at the neighbouring property (no.20) over a distance of 6.5 metres along the 45 degree line. However, there is a detached coal house at no.20 which already breaches the 45 degree code and therefore the additional single storey extension at no.18 would not cause any additional harm or impact on the light available to no.20 over and above the current scenario. Furthermore, an outbuilding at no.18 was previously located in the position of the proposed extension, prior to its demolition.

Development Control Committee Meeting
21 August 2014

The additional 2.4 metre extension is located 3 metres away from the boundary with the other neighbouring property, no.16 Shackerdale Road, and therefore would not have a detrimental impact on the amenity of this property.

Conclusion

The revised plans in Application Amendment B are now considered to be acceptable. The amended rear dormer now complies with the Borough Council's Residential Development SPD and is considered acceptable in its appearance. Whilst the additional single storey rear extension breaches the 45 degree code from the neighbouring property at no.20 Shackerdale Road, it is considered acceptable because the neighbour's own detached coal house already breaches the code.

The application is therefore recommended for approval, subject to conditions. A condition shall be included requiring the dormer to be altered as per the approved plans within 4 months of the decision. This will remove the harm caused by the current breach of planning control and ensure that the large box dormer is removed.

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 Within four months of the date of this decision the rear dormer shall be altered in accordance with the approved plans.
Reason: To ensure that the dwelling does not continue to have a detrimental impact on the appearance of the street scene by reason of the incongruous dormer, and on the amenity of neighbouring properties caused by the overbearing nature of the dormer, and to accord with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, Landscape Proposal 1 and Housing Proposal 17 of the Oadby and Wigston Local Plan and the Residential Development Supplementary Planning Document
- 2 All external materials used in the development shall match those of the existing building in colour, size, coursing and texture unless otherwise first agreed in writing with the Local Planning Authority.
Reason: To safeguard the character and appearance of the building and its surroundings and in accordance with the aims and objectives of the National Planning Policy

Development Control Committee Meeting
21 August 2014

Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 3 Unless otherwise first approved in writing (by means of a Non-material Amendment/Minor Material Amendment or a new Planning Permission) by the Local Planning Authority the development hereby permitted shall be carried out in accordance with the approved plans and particulars listed in the schedule below.

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

Note(s) to Applicant:

- 1 For the avoidance of doubt this permission relates to the following plans and particulars:-
- Proposed Ground Floor Plan - DT Designs Ltd - 2014/05/101/D Page 1 of 6 - received by the Local Planning Authority on 8 July 2014.
 - Proposed First Floor Plan - DT Designs Ltd - 2014/05/101/D Page 2 of 6 - received by the Local Planning Authority on 8 July 2014.
 - Proposed Loft and Roof Plans - DT Designs Ltd - 2014/05/101/D Page 3 of 6 - received by the Local Planning Authority on 8 July 2014.
 - Proposed Elevations - DT Designs Ltd - 2014/05/101/D Page 4 of 6 - received by the Local Planning Authority on 8 July 2014.
 - Site and Location Plans and Sections - DT Designs Ltd - 2014/05/101/D Page 5 of 6 - received by the Local Planning Authority on 8 July 2014.
- 2 You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section.
- 3 If the proposal involves the carrying out of building work along or close to the boundary, you are advised that under the Party Wall Etc. Act 1996 you have a duty to give notice to the adjoining owner of your intentions before commencing this work.
- 4 For the avoidance of doubt this permission does not authorise any development outside the application site including any foundation, footings, fascias, eaves, soffits, verges or guttering.
- 5 You are advised that any amendments to the approved plans will require either a Non-Material amendment application, a Minor Material Amendment application or a new planning application. If this is the case then you should allow at least 8 weeks before the intended start date to gain approval for such amendments. Further advice can be obtained by contacting the Planning Section of the Council on any amendments (internal or external).
- 6 In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application and this has resulted in the approval of the application. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and

Development Control Committee Meeting
21 August 2014

in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

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 must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Telephone 0303 444 5000) or online at www.planningportal.gov.uk/pcs.

The Secretary of State can allow a longer period for giving notice of an appeal, but he 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.

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.

Development Control Committee Meeting
21 August 2014

5	14/00272/COU	Nautical William Aylestone Lane Wigston Leicestershire LE18 1BA
	8 July 2014	Part change of use of car park for use as hand car wash (Application Revision A)
	CASE OFFICER	Sarah Jinks



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Development Control Committee Meeting
21 August 2014

Site and Location

The application site is located near the busy junction of Aylestone Lane and Rolleston Road and has access on both roads. The car park serves the adjoining public house, the Nautical William. Immediately outside the site is a bus stop. The surrounding area is predominantly residential. The nearest residential property is around 11.5 metres away.

Description of proposal

The application proposes a hand car wash on the part of the car park along the Rolleston Road boundary between the two existing access points. The car wash area would measure approximately 7.5 metres deep by 28 metres in length and would accommodate approximately 4 car parking spaces.

The proposed operating hours of the car wash are 9am – 5pm Monday to Saturday, 10am – 5pm Sundays and 9am – 5pm Bank Holidays. There are no opening hour restrictions on the existing public house.

The Applicant has indicated that no permanent structures will be erected on site, and after closing all equipment will be cleared away and the area be made available for parking associated with the public house. The Applicant estimates that the average number of car washes will be 15 – 25 per day, resulting in approximately 3 – 4 cars per hour. Two full-time members of staff would be employed.

The information submitted with the application indicates that access to the car wash will be from Rolleston Road only with cars entering the site from the second access point along Rolleston Road and exit from the first access point along Rolleston Road.

The applicant intends to use a domestic type of power spray (similar to those used for cleaning patios) and vacuum cleaner.

Drainage from the car wash will be to the foul sewer. No additional drainage is proposed.

The statutory determination period for this application expires on the 2 September 2014, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

None Relevant.

Consultations

Leicestershire County Council (Highways) – Recommend Refusal of the application. The proposal, if permitted, would result in the loss of parking for the Public House which in turn could lead to vehicles parking on the public highway which is not in the interest of highway safety. There is a bus stop directly outside the car park. Should vehicles be queuing and waiting from the car wash this could cause an obstruction for the buses on an already heavily trafficked road, this in turn could lead to vehicles obstructing the busy junction from Aylestone Lane to Orson Drive which is not considered safe.

Development Control Committee Meeting
21 August 2014

Severn Trent Water Ltd - No comments have been received at the time of writing this report.

OWBC Environmental Health – Several concerns with the proposal as follows:

Drainage – Concerned that the increase in water production from washing cars may cause water to overflow onto the pavement and road as the location of the car wash is next to the public footpath. The current land drainage may also not be able to deal with the increase flow as the land drains are only there to deal with rain water not a commercial car wash operation.

Health and Safety – It would not be against Health and Safety Law to use a cable to provide power to the pressure washers, the only issue would be not to create a trip hazard, to ensure that the cable is in good condition and to provide adequate protection to the users.

For many car washing operations, Health and Safety does not apply as often they are self employed. The activity is covered by the Health and Safety Executive (HSE) and is classed as peripatetic and falls under the HSE to enforce health and safety. However, the view of the HSE is that if the person is clearly self-employed they are only putting themselves at risk so HSE have been told by the Government not to engage with.

The main concern would be the jet washers being used in a damp/wet environment and any electrical equipment would need to have adequate residual circuit device protection but this would be down to the applicant to protect themselves.

Noise – The consultation document refers to only using domestic pressure washers and vacuum cleaner which is similar to those which other residential properties may use and therefore the applicant does not see any impact of possible noise.

I do not agree with this statement and feel that it would be the duration in which the appliances could potentially be in use for would have an impact upon residential properties especially 67 & 62 – 72 Rolleston Road as there is no barrier to cushion any noise from their property.

This also could have a greater impact at weekends and bank holidays when any background noise level would decrease, however the use of the car wash would increase.

Hours and days of operation – The applicant has stated that there could be 15-25 cars per day with about 3-4 per hour. The proposed hours are 9-5 Monday to Friday and including Sundays and Bank Holidays.

Whilst I appreciate that the car wash will want to be open on Sundays and Bank Holidays this is likely to have a greater impact upon residents, but also the 7 day a week operation would not allow any of the residents to have any rest of the potential noise.

Overall I feel that the possible noise impact and the duration and frequency of the car wash operation could create a Statutory Nuisance.

If the application was granted I feel that the applicant should:

- Install additional ground drainage
- With regards to the hours and days of operation the applicant either need to provide some kind of sound barrier to the residential properties most likely to be affected or have the hours and days of operation restricted i.e Saturday till 3pm. Sunday till 1pm and none on Bank Holidays.

Development Control Committee Meeting
21 August 2014

Environment Agency – We have reviewed the above application and see that in the letter from Resolution Planning dated 30th June 2014 it is stated that drainage from the car wash will be to the foul sewer. Therefore, as presented, the proposal is not a high risk to the environment and would not offer significant environmental benefits, and therefore no further comments on the proposal will be made.

Representations

Neighbours have been informed and a notice placed with 6 letters of representation and a petition signed by 31 people in objection to the proposal being received at the time of writing this report.

The date for the receipt of comments expired on the 5 August 2014.

The reasons for objection can be summarised as follows:-

- It will cause a lot of problems with parking, what will happen when the car gets full they will be parking all over. We get people parking in our cul-de-sac as it is for the pub and they are a nuisance;
- There will be a lot of noise from the jet wash;
- Hoovering;
- Traffic;
- It would encourage people to drink and drive;
- There are more than enough car washes around and about the area;
- Too close to homes;
- You wouldn't want it across the road from your home;
- Traffic is already bad enough;
- Drivers attention could be diverted to look at car wash advertising causing accidents on a very busy zebra crossing and road junction;
- Children, mothers with prams and senior citizens walk across car park;
- Children use this crossing twice daily and the afternoon crossing will be affected by drivers queuing near to the crossing or obstructing a clear visual area around the bus stop area;
- Spray from the car wash may be blown into their way, reducing the width of the pavement meaning that small children and pensioners may be in danger from the buses/cars that stop at the bus stop;
- Will the bus stop be re-sited? Passengers waiting for buses or alighting from buses are at risk of being sprayed with water;
- The car park is in a poor state of repair and is often covered in large deep puddles whenever there has been rain, this will result in possible flooding of the roads and possibly houses. Where will all the extra water from the car wash drain too?;
- What effect will the chemicals used to wash the cars have on the area and drains?;
- The service road has flooded in recent years;
- Not all patrons walk to the public house, where will they park? Will they have to navigate electrical cables and hosepipes to get into the pub?;
- Will members of the public be banned from using the Council owned recycling facility during car wash opening hours? Could the Council be liable if members of the public slip on the car park due to the running of the car wash;
- Although the noise element from one Karcher washer is of no concern, when 4/5 washers are in use, plus the use of car hoovers, then it will be very noisy;
- The car park is usually full especially now they are doing Sunday lunches, funeral wakes, rotary club (or similar meetings);

Development Control Committee Meeting
21 August 2014

- There is no designated yellow “bus box” marked out and no yellow lines so cars could potentially park anywhere, including at the bus stop and cause further congestion;
- Will the water be metered and how will the water get to the point of use? A hose pipe across the car park could cause a trip hazard;
- Will power be required for the jet washers? When this car park was used by a Burger van, Chinese takeaway etc, there was a 240v lead slung across from the Public House to the van. This was against Health and Safety Law and should have been 110v lead from 1 metre beyond the power source being used. Will the same arrangement be adopted? This could cause a trip hazard?;
- Has a planning application been received for the signage or are all of the signs on the application banner type and classed as temporary;
- Children currently use the car park unsupervised for riding, scootering and playing games;
- Displacement of cars onto an already busy Rolleston Road with Arriva buses and vans stopping at the bus stop next to the car park;
- Cars waiting on the road will cause further congestion;
- Times of opening are excessive giving no residents in close proximity to the care wash any peace. Too many days when it will be open;
- Noise from pressure washers and people running it;
- Concerns that the Nautical William cannot control the use of the garden in the evenings as they are regularly open until 1am with music and noisy customers;
- There needs to be an in/out system with crocodile type strips across the entrances;
- Lack of suitable drainage;
- The proposed car wash entrance and exit are either side of where the 49A and 44A buses regularly stop. This will mean buses will be a continuous obstacle/hazard to both users of the car wash and pub and equally create more danger for those getting on/off the bus;
- With the two bus stops being more or less opposite each other, this already causes traffic to back up when both buses are at the stops;
- The bus stop is a designated driver change over location and one of the Arriva works vans stops in front of the proposed entrance. This can be parked for up to 30 minutes on occasions whilst waiting for the bus;
- The introduction of the road hump on Aylestone Lane between Holmden Avenue and Carlton Drive has resulted in more vehicles using Rolleston Road as a cut through/rat run;
- Noise from the buses is already bad enough. Can't open bedroom window at night due to the noise from people in the pub garden, car doors being slammed and buses with their engines on;
- Sometimes 3 or 4 buses parked outside near to a busy junction, it is not a very good idea.

Relevant Planning Policies

National Planning Policy Framework

Oadby & Wigston Core Strategy

Core Strategy Policy 9	:	Flood Risk and the Water Environment
Core Strategy Policy 14	:	Design and Construction

Oadby and Wigston Local Plan

Landscape Proposal 1	:	Design of new development subject to criteria.
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Planning Considerations

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

Development Control Committee Meeting
21 August 2014

- The impact of the proposal on neighbouring residential properties
- Highway safety
- Drainage and pollution

The impact of the proposal on neighbouring residential properties.

Residents have raised concerns with the hours of operation and noise and disturbance from the pressure washers and vacuum cleaner. The Council's Environmental Health Officer has raised concerns with the potential for noise disturbance from the domestic pressure washers and vacuum cleaner, in particular the duration in which the appliances could be in use for, especially to Nos. 67 and 62 – 72 Rolleston Road as there is no barrier to cushion any noise to their property.

The application specifies the intended hours of use. Concerns were also raised with the hours of operation, in particular weekends and bank holidays when any background noise level would decrease and the use of the car wash would increase.

Overall the Environmental Health Officer considers that the possible noise impact and the duration and frequency of the car wash operation could create a Statutory Nuisance.

It is considered that the cumulative impact of these activities would result in noise and disturbance, which would detract from the living conditions of the dwellings in the immediate vicinity. Whilst a condition could be imposed to restrict the hours of operation, it is unclear whether any form of sound barrier as recommended by the Environmental Health Officer, would address overall concerns relating to noise.

Highway safety

The existing public house, which the car park serves, has no opening hour restrictions in place. The proposed operating hours of the car wash are 9am – 5pm Monday to Saturday, 10am – 5pm Sundays and 9am – 5pm Bank Holidays. It is therefore possible that the car park could be used by customers of the public house, and be at full capacity, at times when the car wash is operating. It is considered that the car wash could reduce the capacity of the car park so that there would be insufficient space for customers of the public house. This could lead to parking on the public highway, on-street parking near the site and congestion at the access to the car park from Rolleston Road. Furthermore, there is a bus stop directly outside the car park and the proposal, if permitted, could cause an obstruction to buses on an already busy road.

Although a condition could be imposed to restrict the use to washing of one car at a time and the use of one pressure washer, this would be difficult for the Council to enforce and it would not prevent cars from queuing whilst awaiting service.

Drainage and pollution

Residents have raised concerns with the increased water production from washing cars and the effect of the chemicals on ground water quality.

The Environmental Health Officer has also raised concerns that the increase in water production from washing cars may cause water to overflow onto the pavement and road. The current land drainage may also not be able to deal with the increase flow as the land drains are only there to deal with rain water not a commercial car wash operation.

The Environment Agency has examined the proposal and has raised no objection. At the time of writing this report, no response had been received from Severn Trent Water. My initial conclusion is that it may be possible to attach a planning condition to address any drainage concern.

Other matters

It would not be against Health and Safety Law to use a cable to provide power to the pressure washers, the only issue would be not to create a trip hazard, to ensure that the cable is in good condition and to provide adequate protection to the users.

Conclusion

The proposal would have an adverse effect on highway safety and the living conditions of neighbours in terms of noise and disturbance. For these reasons, it is concluded that the application should be refused.

Implications Statement

Health	No Significant implications
Environment	No Significant implications
Community Safety	No Significant implications
Human Rights	The rights of the applicant to develop this 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 proposed car wash would result in the loss of parking facilities for the public house and would create a demand for further parking spaces. The proposal would result in an unacceptable increase in demand for parking at the premises to an extent where vehicles are likely to park on the public highway. There is a bus stop outside the site and queuing/parked vehicles would cause an obstruction for buses on a heavily trafficked road and obstruction at the Aylestone Road/Orson Drive junction. The affect of the development would be detrimental to highway safety and would not accord with the aims

Development Control Committee Meeting
21 August 2014

and objectives of the National Planning Policy Framework and Oadby and Wigston Core Strategy Policy 4.

- 2 The proposed car wash would adversely affect the residential amenity of neighbouring properties because of noise and disturbance, particularly resulting from the operation of the pressure washers, contrary to the aims and objectives of the National Planning Policy Framework and Landscape Proposal 1 of the Oadby and Wigston Local Plan

Note(s) to Applicant:

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 must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Telephone 0303 444 5000) or online at www.planningportal.gov.uk/pcs.

The Secretary of State can allow a longer period for giving notice of an appeal, but he 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.

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.

2. 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 (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended). However, in this instance, it has not been possible to

Development Control Committee Meeting
21 August 2014

overcome the concerns raised and the proposal remains in conflict with the provisions of the Development Plan and therefore the application has been refused.

Development Control Committee Meeting
21 August 2014

6	14/00274/FUL	23 Bourton Crescent Oadby Leicestershire LE2 4PA
	9 July 2014	Erection of first floor front extension, single storey side, front and rear extensions, including conversion of garage to habitable room with internal alterations (Application Revision B)
	CASE OFFICER	Sarah Booth



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Development Control Committee Meeting
21 August 2014

Site and Location

The application site is a detached residential property located on Bourton Crescent which consists of a variety of housing types and designs. The majority of properties in closest proximity to the application site include detached and semi-detached bungalows and two storey dwellings. The rear of the site also backs on to several bungalows on Nene Drive where the land levels are lower.

Description of proposal

The application proposes the erection of first floor front extension, single storey side, front and rear extensions, including conversion of garage to habitable room. The single storey front extension will protrude a maximum of 0.82 metres from the front of the existing property and will be 4 metres wide. This will consist of a mono-pitched roof with a maximum ridge height of 3.6 metres.

The first floor front extension will create a new gable over the existing garage and will be a maximum height of 6.2 metre. This will be lower than the existing property by 1.6 metres and will extend the first floor forward by 2.7 metres in line with the existing ground floor development.

The single storey side and rear extensions are located on both sides of the property. The east side measures as 7.8 metres deep and 2.6 metres high. This will be 1.2 metres wide at the front of the property and will be 5.5 metres wide at the rear thereby creating a wedge shaped extension.

The west side extension measures 4.1 metres deep by 5.2 metres wide with a maximum height of 3.6 metres.

The statutory determination period for this application expires on the 03 September 2014 and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

92/0140/8M – Two Storey side extension (Approved on 03 April 1992)

80/0850/8M – Lounge Extension (Approved 13 October 1980)

Consultations

Leicestershire County Council (Highways) – Please ensure that there is sufficient parking provision within the curtilage of the dwelling due to the loss of the garage.

Development Control Committee Meeting
21 August 2014

Representations

Neighbours have been informed and a notice placed with 8 letters of representation being received at the time of writing this report.

The date for the receipt of comments expires on the 25 August 2014

The reasons for objection can be summarised as follows:-

- The noise from the building work will no doubt last for many months.
- Any sound from 23, Bourton Crescent is amplified before it reaches properties at the rear.
- We have already experienced two previous extensions to this property.
- Concerns over building noise and the length of total construction time.
- Impact on the value of my property.
- This development is out of character as the area consists primarily of bungalows and small houses.
- This planned development would cause excessive noise and place the rear of the house closer to my own property.
- Congestion and Parking concerns as Bourton Crescent is already overcrowded.
- The property is situated on a very sharp corner and if a car is parked on the road it could cause a major hazard.
- We are concerned about being overlooked by the two windows that will face our home and garden from the proposed study / office.
- We request that the fir trees are only removed if absolutely necessary as they provide an excellent visual and audio screen.
- No windows should be included in the first floor extension walls which face my side.
- During the last extension a window was put in on the first floor my side (with frosted glass) and this does not appear on the plans which you have put on the website. If this window is to remain it must contain frosted glass as it overlooks my bathroom very closely.
- I would prefer the kitchen door to be facing to the rear and not overlooking my side.
- There will only be room for a maximum of 2 vehicles parked at the front of the house due to the loss of the garage.
- There are existing problems with waterlogging / flooding in gardens and properties due to water flowing downhill. The extra bricks, mortar and concrete will cause more problems.
- The property already has two extensions, one more is probably one too many.
- The application states that some trees or hedges will need to be removed or pruned to carry out the development but there are no details given or a scaled plan provided.
- The extension will bring the building much closer to my property infringing on my privacy.
- The development is very large and will be very close to my boundary line.
- The outlook will be unpleasant / spoil my view.
- The trees that are growing currently are a natural defence against being overlooked and to some extent mask noise - are these to be removed?
- Will a new fence be needed and at who's cost?
- I work shifts and the building works will interfere with my sleep patterns.
- The noise levels of the building works and the family moving will infringe on my right to peace and quiet in my own home.
- What drainage system is to be put in place? How will this impact my drainage/flooding?

Development Control Committee Meeting
21 August 2014

Relevant Planning Policies

National Planning Policy Framework

Oadby & Wigston Core Strategy

Core Strategy Policy 14 : Design and Construction

Oadby and Wigston Local Plan

Landscape Proposal 1 : Design of new development subject to criteria.

Housing Proposal 17 : Criteria for assessing the suitability of domestic extensions.

Supplementary Planning Document/Other Guidance

Residential Development Supplementary Planning Document

Planning Considerations

Concerns have been raised during the consideration of the application in relation to the design of the proposal, particularly the appearance of the front elevation. Revised plans have now been received which have altered the roof designs of the single storey extensions. Firstly the front extension has altered from a hipped roof to a mono pitch sloping roof. The wedge shaped side and rear extension has also been altered from a pitched roof to a flat roof to reduce its appearance in the street scene.

Additionally the revised plans have removed a side facing door and obscure glazed two side facing windows to prevent over looking of the adjoining neighbour's property.

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

- The impact of the proposal on the character and appearance of the area
- The impact of the proposal on neighbouring residential properties.

The impact of the proposal on the character and appearance of the area

The application site is located between a bungalow and a two storey semi-detached dwelling. The first floor front extension will be noticeable above the neighbouring bungalows. However its gable design allows the development to be in keeping with the character of the street scene, particularly other two storey properties.

Since receiving amended plans the single storey front extensions would make limited additional impact on the local visual amenity of the street scene. The revised application would be in keeping with similar designs in the area and the existing front extensions on the property. As such it is considered that the front extensions would not be overbearing and would be of a harmonious design and form in accordance with Housing Proposal 17 of the Local Plan.

One of the side extensions would create a 'wedge' shaped extension which is narrower at the front than at the rear. Residential Development Supplementary Planning Document (SPD) states that wedge shaped extensions in prominent locations are rarely considered acceptable. The side extension would be positioned in a location which is screened from the street scene especially due to the close proximity of the neighbour's detached garage.

Development Control Committee Meeting
21 August 2014

Since the revised plans have been received the wedge extension would have a flat roof which would further reduce its visibility. It is noted that the residential Development SPD usually discourages the use of flat roof development, however in this case it was considered that a flat roof design for the wedge extension would be more in keeping with existing development and would be less visible from a public vantage point. Therefore it is considered that this extension would comply with the Residential Development SPD as it would not have a detrimental impact on the street scene.

Overall, the siting of the single storey side and rear extension are not considered to have any undue adverse impact on the street scene due to their rearward location.

Additionally, some neighbours have objected on the grounds that this is excessive over development. The application is considered to be subordinate to the main building and would still retain at least 50 square metres of private amenity space. This would therefore comply with section 4.1 of the Residential Development SPD in relation to private open space and Housing Proposal 17 of the Local Plan. Consequently the development would not result in an unacceptable reduction in open space around the dwelling.

For these reasons, the extension would be in-keeping with the existing property and other properties in the locality.

The impact of the proposal on residential amenity

Several letters of objection have been received in relation to this application, this report will address the planning related matters of the concerns listed above.

The 45 degree code has been applied to assess the impact of the proposal on the neighbouring properties as per section 4.4 of the residential Development Supplementary Planning Document. In respect of the impact on the amenity of the adjoining residential properties, the development accords with the 45 degree code of practice from both adjacent neighbours. As such the proposal would not impact on the neighbours' access to daylight.

Amended plans have now been received which relocate a side door and obscurely glaze two side windows. As these alterations have been received it is considered the development would not overlook the adjacent neighbouring properties. Furthermore the site boundaries are well screened with trees and shrubs which help to obstruct the view of the proposal from the neighbours' properties.

Neighbours have raised concerns relating to the neighbouring boundaries and trees on site. For clarification, the only trees proposed to be removed as part of this application are the conifers located on the east side boundary as indicated on the Block Plan. These trees must be removed in order to build the wedge side extension and they are not considered to be worthy of retention though a tree preservation order due to their limited visibility and their common species. Therefore it is considered acceptable for these trees to be removed.

Some concerns have been raised that this development could exacerbate a current flooding problem in the area. The site is not located within a flood zone and therefore does not give rise to any significant concerns however the drainage of the development will be addressed through the building regulators.

Noise of the development is another concern raised by residents. In the case of householder planning applications it does not appear reasonable to condition the construction works by way

Development Control Committee Meeting
21 August 2014

of a planning condition. However if noise causes a statutory nuisance in the future it is recommended that the neighbours contact the Environmental Health Department.

Several objections relate to parking, particularly as the existing garage is being converted into a habitable room. The Leicestershire County Council Highways Design Guidance advises that properties of 4 bedrooms should provide at least 3 on site car parking spaces. An assessment of the front drive shows that there is sufficient space at the front of the property to accommodate 3 cars to the Highways design guidance standards. As such the development would comply with the recommended parking guidelines.

The development does not have an unduly detrimental effect on the amenities of neighbouring residents in accordance with Housing Proposal 17 of the Local Plan.

Other Matters

The representations received detail a number of issues. None of the issues raised give rise to any significant material planning considerations (other than those dealt with above) and do not indicate any material considerations which suggest that planning permission for such a change of use should be withheld.

Conclusion

It is concluded that the amended proposal will not have any material harm to the amenities of the neighbouring properties or to the character of the area. Subject to no adverse comments being received the application is 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 reason set out in the above report **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 All external materials used in the development shall match those of the existing building in colour, size, coursing and texture unless otherwise first agreed in writing with the Local Planning Authority.

Development Control Committee Meeting
21 August 2014

Reason: To safeguard the character and appearance of the building and its surroundings and in accordance with the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 14, and Landscape Proposal 1 of the Oadby and Wigston Local Plan.

- 3 Unless otherwise first approved in writing (by means of a Non-material Amendment/Minor Material Amendment or a new Planning Permission) by the Local Planning Authority the development hereby permitted shall be carried out in accordance with the approved plans and particulars listed in the schedule below.

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

Note(s) to Applicant:

- 1 For the avoidance of doubt this permission relates to the following plans and particulars:-
- Site Location Plan (1:500) M.C.L Design Services Drawing No. MCL-0614/2/C Received by the Local Planning Authority on 08 August 2014
 - Proposed Plans (1:50, 1:100) M.C.L Design Services Drawing No. MCL-0614/1/C Received by the Local Planning Authority on 08 August 2014
 - Parking Plan (1:100) M.C.L Design Services Drawing No. MCL-0614/3/A Received by the Local Planning Authority on 08 August 2014
- 2 You are advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section.
- 3 If the proposal involves the carrying out of building work along or close to the boundary, you are advised that under the Party Wall Etc. Act 1996 you have a duty to give notice to the adjoining owner of your intentions before commencing this work.
- 4 For the avoidance of doubt this permission does not authorise any development outside the application site including any foundation, footings, fascias, eaves, soffits, verges or guttering.
- 5 You are advised that any amendments to the approved plans will require either a Non-Material amendment application, a Minor Material Amendment application or a new planning application. If this is the case then you should allow at least 8 weeks before the intended start date to gain approval for such amendments. Further advice can be obtained by contacting the Planning Section of the Council on any amendments (internal or external).
- 6 In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application and this has resulted in the approval of the application. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).

Development Control Committee Meeting
21 August 2014

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 must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Telephone 0303 444 5000) or online at www.planningportal.gov.uk/pcs.

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

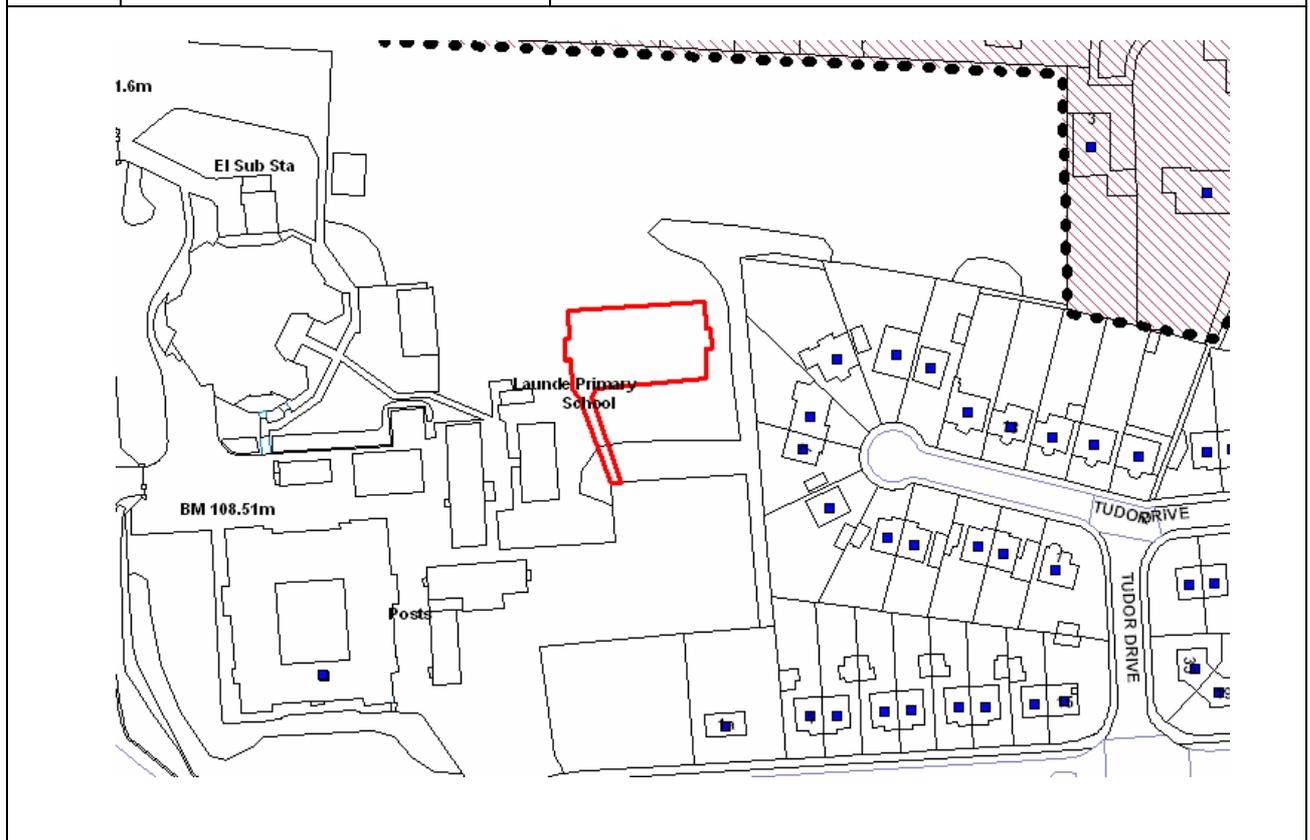
The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements,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

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.

7	14/00283/VAC	Launde Primary School New Street Oadby Leicester Leicestershire LE2 4LJ
	10 July 2014	Section 73 application to remove condition 1 of planning permission 14/00110/FUL relating to approval of community use agreement
	CASE OFFICER	Sarah Jinks



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Development Control Committee Meeting
21 August 2014

Site and Location

Launde Primary School is located at the junction of New Street and Harborough Road (A6). The school is principally surrounded by residential properties.

Description of proposal

The retention of an all weather ball court on the existing playing field was approved on the 30 May 2014 subject to the condition (condition 1) that a community use agreement (prepared in consultation with Sport England) shall be submitted to and approved in writing by the Local Planning Authority.

The current application is to remove this condition to enable the all weather ball court to be used solely by Launde Primary School users.

The site constitutes a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No. 2184).

The statutory determination period for this application expires on the 4 September 2014, and it is intended to issue a decision as soon as practicably possible after the committee meeting.

Relevant Planning History

14/00110/FUL : Retrospective planning permission to erect an all weather ball court – Approved 30 May 2014

Consultations

Leicestershire County Council (Highways) – No observations.

OWBC Environmental Health – No objections.

Sport England – Recommended Refusal.

It is understood that the site forms part of, or constitutes a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No. 2184).

The consultation is therefore statutory and Sport England has considered the application in the light of the National Planning Policy Framework (in particular Par 74) and its policy to protect playing fields, 'A Sporting Future for the Playing Fields of England.

Essentially Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of, all/part of a playing field, unless one of 5 exceptions applies:

E1 - An assessment has demonstrated that there is an excess of playing fields in the catchment and the site has no special significance for sport

E2 - The Development is ancillary to the principal use of the playing field and does not affect the quantity/quality of pitches

Development Control Committee Meeting
21 August 2014

E3 - The Development only affects land incapable of forming part of a playing pitch and the would lead to no loss of ability to use/size of playing pitch

E4 - Playing field lost would be replaced, equivalent or better in terms of quantity, quality and accessibility

E5 - The proposed development is for an indoor/outdoor sports facility of sufficient benefit to sport to outweigh the detriment caused by the loss of playing field

The original application for the MUGA was retrospective (the school erected it without planning permission) and Sport England only supported the retention of the MUGA, given it led to the loss of playing field, on the basis that it was made available to the community to use as well as school children to ensure there was some overriding benefit to sport and the proposal met Exception E above.

The rationale for not complying with the condition is that the planning application itself stated it was for school use only and that Sport England's Active Places Power does not list it as a community facility.

Firstly, the fact that the original planning application did not volunteer community use does not override the requirement of a condition if this makes the development acceptable in planning terms. In this case, given the loss of playing field, providing access to the community ensured Sport England, as a statutory consultee, did not object to the application as it would meet with Exception 5. Without the condition E5 would not have been satisfied and Sport England would have objected to the application.

Secondly, Active Places Power, Sport England's database of sports facilities, does not include MUGAs in the scope of facility listings therefore this reason holds no weight.

Sport England therefore considers that the condition should be retained and that the school should submit a Community Use Agreement and ensure community access to the MUGA.

Representations

Neighbours have been informed and a site notice placed with 20 letters of support being received at the time of writing this report. The date for the receipt of comments expires on the 11 August 2014.

The reasons for supporting the proposal can be summarised as follows: -

- Sport England had no input into the development and provision of the ball court referred to and therefore have no power/authority to ensure that this facility be made available for community use; and
- The ball court is in very close proximity to residential properties and the opening of it for community use after school operating times would have an unacceptable effect and consequences on local residents.
- Councillor Gore has requested that if the application is recommended for approval then the application should be brought to committee to debate the issues.

Relevant Planning Policies

National Planning Policy Framework

Oadby & Wigston Core Strategy

Development Control Committee Meeting
21 August 2014

Core Strategy Policy 14 : Design and Construction
Core Strategy Policy 17 : Open Space and Facilities for Leisure, Recreation and Tourism

Oadby and Wigston Local Plan

Landscape Proposal 1 : Design of new development subject to criteria.

Supplementary Planning Document/Other Guidance

Planning Policy Statement: A Sporting Future for the Playing Fields of England

Planning Considerations

The retention of an all weather ball court on the existing playing field was approved on the 30 May 2014 subject to the condition (condition 1) that a community use agreement (prepared in consultation with Sport England) shall be submitted to and approved in writing by the Local Planning Authority.

The previous application was considered in light of Sport England's playing fields policy. The aim of this policy is to ensure that there is an adequate supply of quality pitches to satisfy the current and estimated future demand for pitch sports within the area.

Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of, all or any part of a playing field, or land last used as a playing field or allocated for use as a playing field in an adopted or draft deposit local plan, unless, in the judgement of Sport England, one of the 5 exceptions applies.

The original application for the all weather ball court was retrospective (the school erected it without planning permission) and Sport England only supported the retention of the all weather ball court, which led to the loss of playing field, on the basis that it was made available to the community to use as well as school children to ensure there was some overriding benefit to sport and the proposal met Exception E. A condition was therefore imposed to ensure that a Community Use Agreement was prepared.

The current application is to remove this condition to enable the multi-use games area to be used solely by Launde Primary School users.

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

- The principle of the development without community use
- The impact of the proposal on neighbouring residential properties.

The principle of the development without community use

The site constitutes a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No. 2184) and therefore it is a statutory requirement to consult Sport England on the application. The comments of Sport England are a therefore key consideration in the determination of this application.

The fact that the original planning application did not volunteer community use does not override the requirement of a condition if this makes the development acceptable in planning terms. In this case, given the loss of playing field, providing access to the community ensured Sport England did not object to the application as it would meet with Exception 5. Without the condition

Development Control Committee Meeting
21 August 2014

E5 would not have been satisfied and Sport England would have objected to the application. Furthermore, Active Places Power, Sport England's database of sports facilities, does not include Multi-Use Games Areas (MUGAs) in the scope of facility listings. Sport England therefore considers that the condition should be retained and that the school should submit a Community Use Agreement and ensure community access to the all weather ball court.

It is clear from Sport England's consultation response that they would not support the retention of the development without such a community use. This was a key consideration in the determination of application 14/00110/FUL.

The application does not provide any evidence/information to support the removal of condition 1 and I see no justification for doing so. Consequently, refusal of the application is recommended.

The impact of the proposal on neighbouring residential properties.

The all weather ball court is located along the eastern boundary of the site which is approximately 20 metres from the nearest windows of residential properties on Tudor Drive and approximately 6 metres from the garden boundary.

Residents have raised concerns with the impact on surrounding residential properties.

It appears that the site has previously been used for sports, a rounder's pitch can be seen on the aerial photographs, and therefore the use of the site for a sports facility is considered to be compatible with the surrounding area, which comprises residential properties.

On the original application, the Environmental Health Officer confirmed that no records of any complaints about noise from the all weather ball court had been received in the time that it had been in use (October 2012), with the exception of an objection letter which was received in response to the application.

The new court is sited a similar distance from residential properties as the existing macadam playground, and on the previous application the Environmental Health Officer confirmed that no complaints about unreasonable noise from this area had been received. It was therefore considered that the new court would not be dissimilar in impact to this.

Whilst the school could currently let out the playing field to non-Launde Primary School users with no restrictions on the hours of use, a condition (condition 2) was imposed on the previously approved planning permission preventing the all weather ball court from being used on Sundays and Bank Holidays.

For these reasons, I am of the opinion that community use of the all weather ball court will not have any significant impact in terms of noise and general amenity on the occupants of nearby residential properties.

Other matters

Sport England has developed a template for a Community Use Agreement which will need to be developed in consultation with the parties to the agreement before being finalised. The Community Use Agreement will cover such matters as hours of use (term-time and school holidays), management arrangements, pricing policy, booking arrangements and parking arrangements.

Development Control Committee Meeting
21 August 2014

Conclusion

In light of the above considerations, condition 1 should be retained and that the school should submit a Community Use Agreement and ensure community access to the all weather ball court.

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 reason:

- 1 The retention of the all weather ball court without community use required by condition 1 of permission 14/00110/FUL would result in the loss of part of the playing field without providing sufficient benefits to outweigh the detriment caused by the loss of the playing field. The use of the all weather ball court for school use only would fail to meet an appropriate Sport England exception test and therefore the proposal would be contrary to the aims and objectives of the National Planning Policy Framework, Core Strategy Policy 17 and Sport England's policy to protect playing fields.

Note(s) to Applicant:

- 1 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 (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended). 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.

Development Control Committee Meeting
21 August 2014

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 must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Telephone 0303 444 5000) or online at www.planningportal.gov.uk/pcs.

The Secretary of State can allow a longer period for giving notice of an appeal, but he 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.

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

14/00242/FUL

14/00250/VAC

14/00251/FUL

14/00267/FUL

14/00272/COU

14/00274/FUL

14/00283/VAC



Development Control Committee	21 August 2014	Matter for Decision
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Title: **Tree Preservation Order TPO/0302 – Land at 16
Knighton Rise, Oadby**

Author: **Chris Forrett**

1 Introduction

The purpose of this report is to seek a decision from the Committee to confirm or otherwise The Borough Council of Oadby and Wigston (Land at 16 Knighton Rise, Oadby) Tree Preservation Order 2014.

2 Recommendation

It is recommended that the Tree Preservation Order made on the 30 April 2014 be confirmed as made.

3 Information

A section 211 Tree Notification (works to trees in a Conservation Area – reference 14/00124/TCA) was made in March 2014 for the felling of 9 trees. This notification was considered under delegated powers and a provisional (emergency) Tree Preservation Order (TPO) was made of the 30 April 2014 relating to three trees on the frontage to the site – a Lime, Laburnum and a Purple Plum. In compliance with the regulations, copies of the Order were served on the owners of the property and adjoining neighbours.

A provisional TPO gives immediate protection to trees and remains in force for a period of up to six months during which time the Council can confirm whether to confirm the Order as made, to confirm the Order with modifications, or to not confirm the Order.

The grounds of making the Order was that the trees are of amenity value to the general public being located in a position which is readily visible from the street and is considered worthy of further protection afforded by a TPO. It was expedient to serve the Order to protect the tree from unnecessary felling.

During the statutory objection period which followed the service of the Order no written representations have been received. It is considered that the reason for serving the TPO remains valid and therefore it is recommended that the emergency Order is confirmed.

Email: chris.forrett@oadby-wigston.gov.uk Tel: (0116) 257 2710

Implications	
Financial (PL)	No Significant implications.
Risk (KG)	No Significant implications.
Equalities (KG)	No Significant implications.
Legal (KG)	A decision of the Council to confirm an Order can be challenged in the High Court within six weeks of the date of the decision.