

**Leicester**  
City Council

**Wards:**  
**See individual reports.**

**Development Control Committee**

**20<sup>TH</sup> JANUARY 2004**

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**REPORTS ON APPLICATIONS AND CONTRAVENTIONS**

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**Report of the Service Director of Community Health and Well-being**

**1. Introduction**

The City Council has resolved that reports to any committee must address the implications of the action recommended in relation to finance, equal opportunities, policy, legal issues, sustainability and the environment and crime and disorder.

This report deals with development control matters on which the recommendations must be based on material planning considerations as set out in the Planning Acts and associated regulations, circulars and central government guidance. The following implications paragraphs relate to all the recommendations in this report.

**2. Financial Implications**

The cost of operating the development control service, including processing applications and pursuing enforcement action, is met from the Development Control Group budget which takes account of the income expected to be generated by planning application fees.

Development Control decisions can result in appeals to the Secretary of State or in some circumstances legal challenges which can have cost implications for the City Council. Where there are special costs directly relevant to a recommendation these are discussed in the individual reports.

**3. Equal Opportunities Implications**

To assist the City Council to identify the impact of planning application decisions, these are monitored by the ethnic group of the applicant. It is established policy not to identify individual applicants by ethnic origin as this would be against assurances of confidentiality. I am also unable to give numbers of applications in each group as in some cases these are so small that individual applicants could be identified. Regular reports are sent to Members giving the results of this monitoring.

The following reports on this agenda were identified as having a particular impact on one or more disadvantaged group, or relate to the provision or improvement of facilities to the benefit of particular groups.

### **APPLICATIONS WITH SPECIFIC EQUAL OPPORTUNITY IMPLICATIONS**

App No	Page	Ward	Address	Ethnic Minority Groups	Religious Groups	People with Disabilities	Res. Care inc. Children and Elderly	Non-Res. Care inc. Children and the Elderly	Children	Women's Issues
20031890	12	BL	71 MELTON ROAD						√	

#### **4. Policy Implications**

Planning applications must be decided in accordance with the provision of Development Plan, principally the City of Leicester Local Plan and the Leicestershire Structure Plan, unless these are outweighed by other material considerations. The latter include supplementary planning guidance, site specific development briefs produced by the City Council, and emerging/ updated versions of the Development Plan. Individual reports refer to the policies relevant to the recommendation.

#### **5. Legal Implications**

The recommendations in this report are made under powers contained in the Planning Acts. Specific legal implications, including the service of statutory notices, initiating prosecution proceedings and preparation of legal agreements are identified in individual reports. As appropriate, the Head of Legal Services has been consulted and his comments are incorporated in individual reports.

#### **6. Human Rights Act**

*Members will be aware that the Human Rights Act 1998 is now in force. Provisions in the Act relevant to considering planning applications are Article 8 (the right to respect for private and family life), Article 1 of the First Protocol (protection of property) and, where relevant, Article 14 (prohibition of discrimination).*

In terms of reports on enforcement action, preparatory information, including details of ownership, has been sought in the light of current case law. The Head of Legal Services takes the view that obtaining such information does not relate to a trial process and so does not breach Article 6 (the right to a fair trial).

The uncertainty over whether the Secretary of State can “call in” planning appeals because of potential incompatibility with the Human Rights Act has been clarified by a decision of the House of Lords. They decided that the Secretary of State’s powers to call in planning applications, or to recover planning appeals for decision by him, are lawful and do not breach Article 6. This clarification lessens the possibility of any challenge, under human rights legislation, to enforcement action

## 7. Sustainability and Environmental Implications

The City of Leicester Local Plan has been subjected to a full sustainability appraisal. The sustainability implications material to each recommendation, including any Environmental Statement, submitted with a planning application, are examined in each report.

The following applications in this report are accompanied by an Environmental Statement:

Page	App. No.	Address	Ward	Report Section

## 8. Crime and Disorder Implications

Issues of crime prevention and personal safety are material considerations in development control recommendations. Where relevant these are dealt with in individual reports.

## 9. Consultations

Consultations with other departments and external organisations are referred to in individual reports.

## 10. Background Papers

Copies of individual planning applications are available for inspection in the Customer Service Centre, New Walk Centre. Representations and consultation responses on individual applications are kept on application files which can be inspected by contacting the Development Control Group, extension 7249.

## 11. Officer to Contact

Authors of individual contravention and application reports, via Extension 7249 or Mike Richardson, Head of Development Control, Extension 7244.

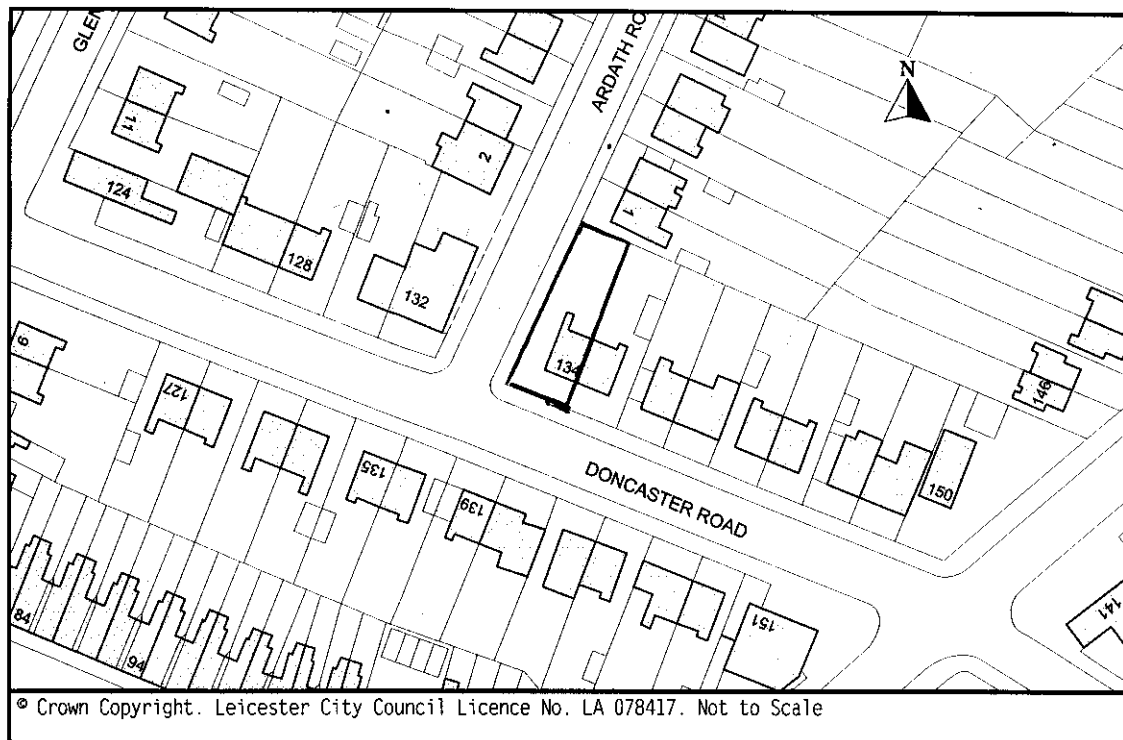
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43	20038041a	Aylestone Road, Mecca Bingo Hall	C	CA	APL
5	20034427c	134 Doncaster Road	E	LA	CON
29	20032079	236 East Park Road	E	SH	APP
17	20032001	114 Kedleston Road	E	SH	REF
7	20034475c	114 Kedleston Road	E	SH	CON
39	20038021a	38 Lincoln Street	C	CA	APL
31	20032133	Stocking Farm Post Office, 2a Marwood Road	C	AB	APP
12	20031890	71 Melton Road	E	BE	REF
40	20038028a	39/43 Newarke Street, Oxford House (Leicester) Ltd	C	CA	APL
19	20031986	Oakland Road, Knighton Junction Lane, Clarendon Dye Works	W	FM	REF
42	20038030a	1a Stamford Street	C	CA	APL
34	20031578	University Road, De Montfort Hall, Land Adjacent	C	CA	LCC
24	20031544	398 Uppingham Road	E	TC	APP
9	20031603	247 Western Road	W	WC	REF
41	20038029a	30 Woodbine Avenue	E	ST	APL

**CONTRAVENTION MATTERS**

<b>20034427C</b>	<b>134 DONCASTER ROAD</b>
29/07/2003	AREA: E                      WARD: <b>Latimer</b>
END	2 METRE HIGH FENCE FRONTING THE HIGHWAY
BY	THE OCCUPIER

**Introduction**

This property is a semi-detached corner house located within a Primarily Residential Area as defined in the Adopted and Draft Replacement City of Leicester Local Plans.

**Background**

In 1995 planning permission was given for single and two storey extensions and for a double garage at the end of the garden next to 1 Ardath Road.

The plans suggest some sort of physical boundary around the plot but there is no indication of type or height. The permission did have a condition that sight lines be retained for the access to the garage. This would preclude any high fences or walls for a distance of two metres either of the access and two metres back from the pavement.

**Alleged Breach**

In July 2003, an anonymous complaint was received alleging that a 2 metre high fence on a low base of blockwork had been constructed on the boundary between 134 Doncaster Road and 1 Ardath Road and along Ardath Road to connect with the rear/ side extension fronting the highway.

## **Policy**

Local Plan Policy H6 states that within Primarily Residential Areas, planning permission will normally be granted for development for residential purposes except where (among other criteria) it would be likely to prove detrimental to the amenities of occupiers of nearby properties, be unacceptable by reason of unsatisfactory car parking or access arrangements, or where the proposed design is unsatisfactory.

## **Consideration**

The wall along the boundary with 1 Ardath Road would have needed planning permission as it is more than one metre high adjacent to the highway. If an application had been submitted for the installation of a fence in this position, my concerns would be with regards to a requirement that sight lines be provided to the access onto Ardath Road and the need to avoid intrusive elements along frontages to the street.

The owner has suggested that the fence was constructed as part of the building works carried out in 1996. The construction appears more recent than that and the complaint received in July 2003 seemed to suggest that the fence was a recent addition.

I accept that the 1995 approved plans indicated some boundary treatment but that the only specific requirement of the planning permission was the retention of sight lines. I also accept that the owner wants privacy for the rear garden and the fence is relatively attractive and not that intrusive in this position.

I do consider that there is a need to restore sight lines for both the garage access and for the driveway to 1 Ardath Road.

## **Recommendation**

I recommend that the Town Clerk be authorised to issue the following notice:  
**Enforcement Notice - Operational Development**

### Steps to be Taken

1. Remove the fencing on the boundary between 134 Doncaster Road and the front garden to 1 Ardath Road or reduce it to a height of one metre or less as coloured green on the attached plan.
2. Remove the fencing or reduce it to height of no more than one metre for a distance of two metres along Ardath Road from the side of the garage access and two metres from the back of the footway as coloured green on the attached plan

### Reason

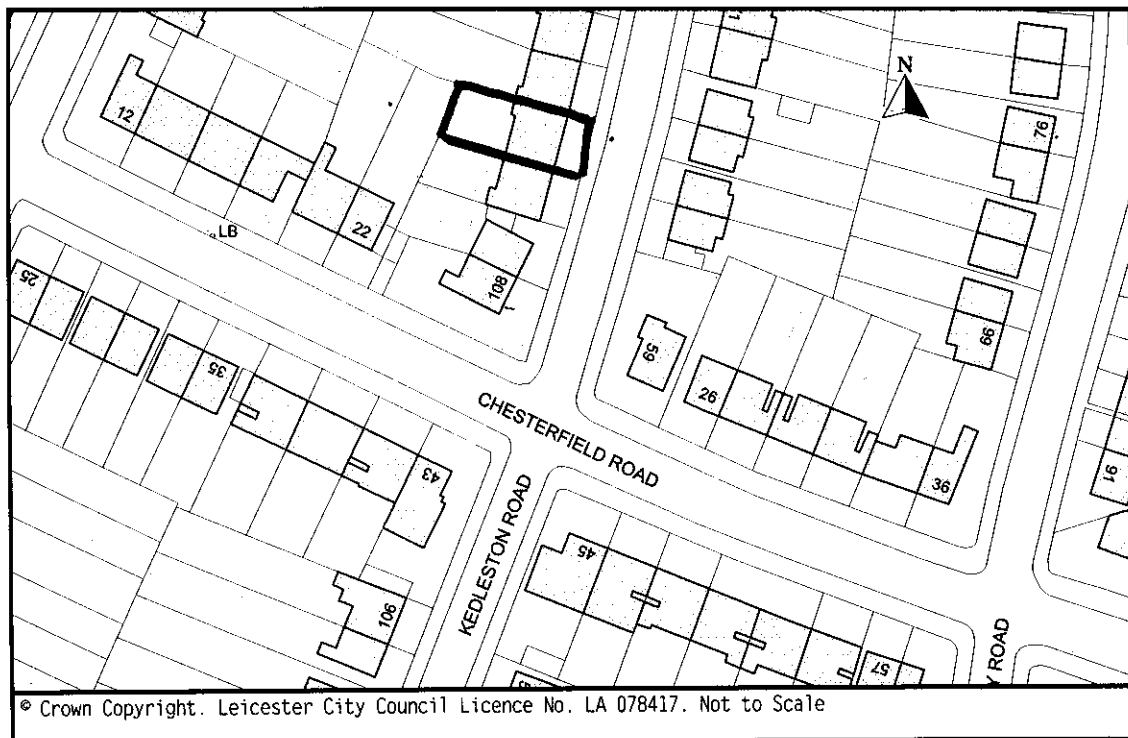
The fencing in this position obscures sight lines and is therefore detrimental to the safety of pedestrians and other road users contrary to Policy H6 of the City of Leicester Local Plan.

Period for Compliance

One Month

**CONTRAVENTION MATTERS**

<b>20034475C</b>	<b>114 KEDLESTON ROAD</b>
26/08/2003	AREA: E                      WARD: <b>Spinney Hills</b>
END	CONSERVATORY AND OUTBUILDING AT REAR
AS	MR BAGGIS

**Introduction & Background**

This matter was deferred at the last committee meeting for a members site visit.

This report relates to a semi-detached property located on the north side of Kedleston Road, close to the junction with Chesterfield Road. The property is allocated within a Primarily Residential Area.

See report 20032001 & location plan elsewhere on the agenda.

**Alleged Breach**

The applicant has constructed a conservatory to the rear of the property, which has a depth of 3.7m and a width of 3m. The conservatory is positioned up to the side boundary with the adjoining semi-detached property (112 Kedleston Road) and is constructed in clear glass with a dwarf brick wall.

The applicant has also constructed a brick built detached store at the bottom of the garden. The store is 3.6m away from the conservatory and therefore planning permission is required. The store is full width of the garden and measures 3.1m (depth) by 8.5m (width). The height is 2.6 metres with a flat roof.

### **Policy**

Policy H6 of the Local Plan states that within primarily residential areas planning permission will normally be granted for development for residential purposes except where, among other things, it would be likely to prove detrimental to the amenities of occupiers of nearby property by reason of substantial loss of privacy or light or where the proposed design is unsatisfactory. Policy EN18 requires that the design of an extension should be integrated with that of the main dwelling.

Further guidelines are contained in appendix 5 of the City of Leicester Local Plan, which states:

- For semi detached houses a single storey extension on or close to the boundary of up to 2.4 metres depth will in most cases be acceptable. Deeper extensions may be acceptable in some cases, depending on the orientation of the property and relationship of the extension to windows of the adjoining house. These should not intersect a line taken at 45° from the nearest point of ground floor windows on adjoining or adjacent houses.

### **Consideration**

The conservatory is 3.7m deep which is above the limits specified in the above guidance. Given the depth of the conservatory and its position adjacent to the boundary I consider it has an unacceptable impact on the amenities of the adjoining property in terms of loss of light and outlook.

The detached store in conjunction with a conservatory of this size results in an over development of the rear garden, which I consider to be unacceptable, due to the impact on the amenities of the adjoining properties. The impact on the adjoining properties would be moderated, however, if the conservatory were reduced in depth.

### **Recommendation**

I recommend that the Town Clerk be authorised to issue the following notice:

#### **Enforcement Notice - Operational Development**

#### Steps to be Taken

Reduce the depth of the conservatory from the rear wall of the house to 2.4m.

#### Reason

The conservatory, at 3.9m deep, has a serious impact on the amenities of the adjoining property, 112 Kedleston Road, in terms of loss of light and outlook.

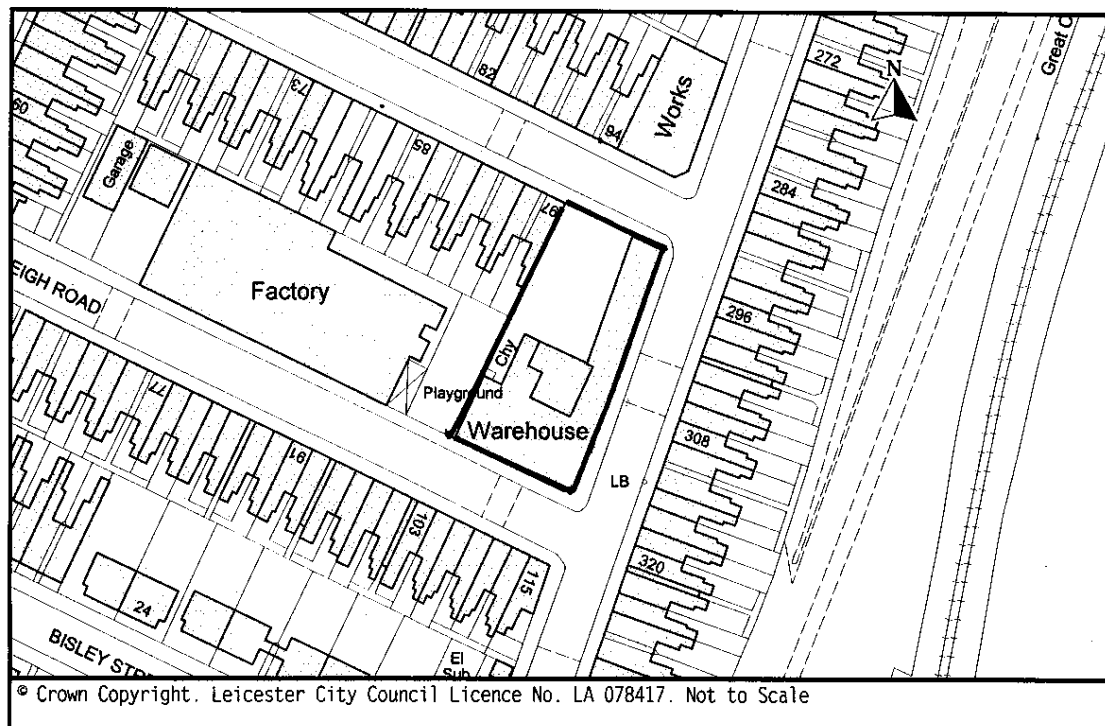
#### Period for Compliance

3 months



**APPLICATIONS RECOMMENDED FOR REFUSAL**

<b>20031603</b>	<b>247 WESTERN ROAD</b>	
05/08/2003	AREA: W	WARD: <b>Westcotes</b>
DEV	14 DWELLINGS (CLASS C3) (AMENDED PLANS)	
TDS	C T LOFTS	



### Introduction

The application relates to a 880sqm site located on Western Road between the junctions with Walton Street and Eastleigh Road. The site comprises a 1½ and 2 storey building with an approximately 20m high chimney at the rear of the site. The land slopes downhill from Walton Street towards Eastleigh Road (north to south). Vehicular access into the site is off Walton Street.

The property has a lawful use for storage (Class B8) with ancillary offices and 11 car parking spaces. There are no hours of use restrictions on the property. The site is located within a defined Primarily Residential Area.

### Background

Outline planning permission 20030171 was granted for residential development with all matters reserved. An indicative plan was submitted with the application (with a similar footprint to this application) and a note for applicant attached to the decision letter stated that:

*No consent is granted or implied for the siting and massing of the building shown on the indicative plan submitted with the application. The applicant is advised that the extent of the ground coverage of the new building will need to be reduced to provide off-street parking and private amenity space to serve the development.*

## The Proposal

The application proposes 14 houses located as follows:

- Eleven 2-bedroomed terraced 2½ storey houses fronting Western Road;
- A pair of 2-bedroomed 2½ storey semi-detached houses fronting Eastleigh Road;
- A 2-bedroomed two-storey end-terrace to the existing houses on Walton Street.

The 2½ storey houses would be a contemporary design with the second floor in the roof space being used for a bedroom and a rear balcony. The house fronting Walton Street would match the other terraced properties on that street.

14 car parking spaces are provided in the rear courtyard utilising the existing access on Walton Street and a further pedestrian access is provided on Eastleigh Road.

Other than the rear balconies, no private amenity space is provided.

Bin storage and a cycle parking area is provided.

The application originally proposed 15 houses with an additional house fronting Eastleigh Road, 12 car parking spaces, and no bin storage or cycle parking.

## Development Plan Policies

- EN17 Infill development in housing areas should normally conform to the prevailing scale, density, site coverage and materials.
- H6 Within the Primarily Residential Areas, permission normally granted for residential development, subject to criteria.
- T12 Permission not normally granted unless adequate provision for parking of vehicles including cycles off the highway.

## Policy Considerations

Policy H6 states that within Primarily Residential Areas, planning permission will normally be granted for development for residential purposes except where (among other considerations):

- A plot is too small to accommodate a dwelling satisfactorily;
- It would be likely to prove detrimental to the amenities of occupiers of nearby properties by reason of substantial loss of privacy or light;
- The proposed access to the site or car parking arrangements are unsatisfactory;
- The proposed design of the development is unsatisfactory.

Supplementary Planning Guidance *Open Space in New Residential Developments* requires 32sqm of amenity space per 2 bed dwelling.

## Consultations

Environment Agency and Severn Trent Water raise no objection to the proposal subject to conditions.

## Representations

Eleven letters have been received objecting to the application on the following grounds:

- Inadequate off-street parking is provided which would result in an increase in on-street parking in already congested streets.
- Loss of light to the houses opposite due to the height of the proposed development;
- Loss of privacy to the houses opposite due to the number of windows proposed on the front elevations;
- Additional noise disturbance;
- Design of the proposal not in keeping with the surrounding area.

Two letters of objection (one of which was countersigned by 9 households) have been received in response to the amended scheme, reiterating the previous concerns.

Councillors Farmer and Connelly both requested that the application be referred to the Development Control Committee should the recommendation be for approval.

## Consideration

The principle of the use has been accepted by the outline planning permission. The site is located within a Primarily Residential Area and therefore the proposal is welcomed in principle as it would remove a non-conforming use. The proposed use would be less likely to cause noise disturbance than an unrestricted employment use, contrary to the views of objectors.

Whilst the contemporary design is not in keeping with the surrounding area, I consider it to be generally acceptable. Although the roofline staggers, the height is on average approximately 9m to the top of the ridge compared with 8.5m on the surrounding terraced houses. The second floor bedrooms would be served by velux windows on the front elevation and therefore the relationship with the houses opposite would be similar to that experienced in most terraced streets. I do not consider that the proposal would have any significantly detrimental impact on the amenities of nearby occupiers in terms of loss of outlook, light or privacy.

The application proposes 14 off street car parking spaces equating to one space per unit which I consider to be acceptable subject to a contribution towards the implementation of a Residents Parking Scheme in the area. The proposal would utilise the existing access which is also acceptable.

The proposal requires 448sqm of amenity space in accordance with the Open Space SPG. The only amenity space provided would be the rear balconies measuring approximately 7.4sqm in each dwelling, accessed through the second bedroom which is not an ideal arrangement. I consider the level of amenity space to be far from acceptable and that the proposal represents overdevelopment of the site.

The applicant has indicated that he is prepared to contribute towards the enhancement of the adjoining pocket park which would be a desirable gain. However, whilst I may be able to accept a contribution in lieu of some of the required

provision, I consider this alone to be inappropriate and unacceptable, and more on-site amenity space is required.

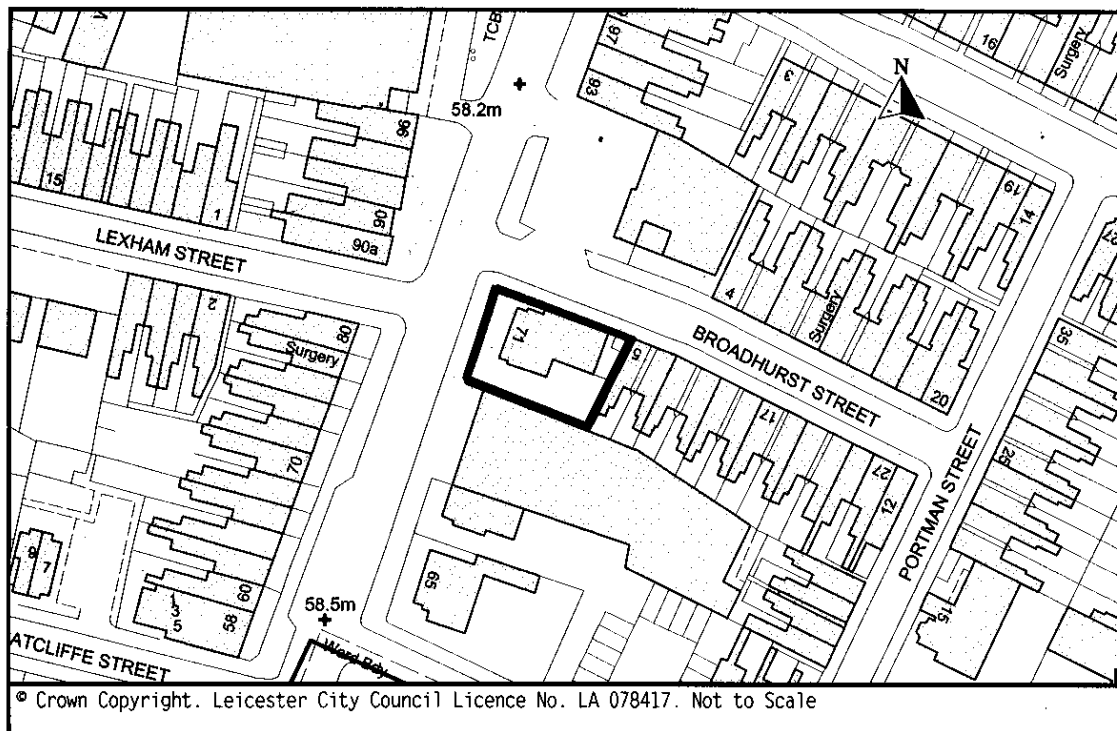
The applicant has been advised at the time of the outline approval and during the consideration of this application, that the number of units on the site needs to be reduced in order to provide adequate off-street parking AND private amenity space. However, the applicant is not prepared to amend the scheme to satisfy both of these requirements.

I recommend REFUSAL for the following reasons:

#### REASON

1. The application proposes an unacceptable level of on-site amenity space and represents overdevelopment of the site contrary to Policy H6 of the City of Leicester Local Plan and the draft Supplementary Planning Guidance 'Open Space Provision in New Residential Developments'.

<b>APPLICATIONS RECOMMENDED FOR REFUSAL</b>	
<b>20031890</b>	<b>71 MELTON ROAD</b>
10/11/2003	AREA: E                      WARD: <b>Belgrave</b>
DEV	VARIATION OF CONDITION 3 TO PLANNING PERMISSSION 19921689 TO EXTEND EXISTING CHILD CARE FACILITY (CLASS D1) FROM 35 TO 50 PLACES
SJM	N FARRINGTON



#### Introduction

71 Melton Road is a large, detached property situated on the corner of Melton Road with Broadhurst Street. It adjoins a large retail shop at 69 Melton Road and there is a tyre and exhaust fitting centre on the opposite corner of Broadhurst Street. Broadhurst Street is residential with a doctor's surgery at No.10.

The property is within an area allocated for primarily residential use in the Local Plan.

### **Background**

The property was formerly a house and planning consent (19890232) was granted for a change of use of the ground floor to a day nursery in April 1989. A further application (19921689) was granted in January 1993 for the change of use of the first floor residential accommodation to enlarge the day nursery. Condition No. 3 attached to this consent stated that:

" No more than an additional 10 children shall use the premises as extended making a total of 35 children in all."

Planning consent was sought in 2002 (20021506) for the variation of that condition to increase the number of child care places from 35 to 55. The planning application was refused by the Development Control Sub-Committee for the following reason:

1. The proposed increase in the number of children from 35 to 55 would be likely to generate a significant increase in vehicular traffic to the site which, by reason of its lack of satisfactory off-street parking and loading/unloading facilities and its location on the corner of Melton Road with Broadhurst Street, would be detrimental to highway safety contrary to the provisions of Policy C8 in the City of Leicester Local Plan.

### **The Proposal**

This latest application seeks consent for the increase in the number of children using the day nursery from 35 to 50 children. Hours of use would be as existing between 07.30 to 18.00 hours Mondays to Fridays. There would be an additional two members of staff taking the total to 15 (this figure includes full and part time workers).

The applicant was concerned that, when the previous application was considered, Members were not fully acquainted with the basis on which the additional child spaces would be allocated. The applicant wishes the following (summarised) information to be known to Members on consideration of this latest proposal.

- The nursery has operated for 15 years
- Aims to support children and families in an area which has been recognised as one of high deprivation
- Working with government departments to provide this support by assisting with child care needs.
- Within the past year the nursery has become a recognised Neighbourhood Nursery providing highly subsidised child care for parents in need and has been awarded New Opportunities funding to provide subsidised after school and holiday care facilities.
- The Neighbourhood Nurseries Initiative (NNI) is a government programme established by the Department of Education and Skills. The initiative has two aims: firstly to reduce unemployment in the most disadvantaged wards by offering childcare services that enable parents to return to work and secondly to help improve the life chances of children in providing quality child care and early learning facilities. The nursery has been chosen to help the government achieve its aim.

- The applicant has stated that although the nursery has sufficient floor area to accommodate 55 children it has now chosen to extend the registration to 50 to work in line with the Neighbourhood nursery's development where funding has been granted for 10 children.
- The majority of parents are local and walk or use public transport. The NNI funding criteria is that families live in the immediate local area and are in *need* – this involves families who can not afford cars.
- Parents dropping off or collecting their children are parked for a matter of minutes. There is a designated point for this on the forecourt of the building.
- Families may have more than one child attending the nursery at any one time.
- Other nearby businesses attract customer parking for much longer periods of time.

A petition has been submitted with the application. This has been signed by 51 people in support of the nursery extending. Also submitted are copies of surveys sent out to parents in receipt of NNI funding detailing how their families have been supported by the funding, mainly by the parent(s) being able to return to work.

### **Development Plan Policies**

C8 Permission normally granted for the establishment of day care facilities for children under 8 subject to criteria.

### **Policy Considerations**

*Policy C8 of the adopted Local Plan advises that - Planning permission will normally be granted for the establishment of day care facilities for children under 8 provided that there is no nuisance to neighbours nearby by reason of the activities on site or the traffic generated in the adjacent area and that there is no adverse effect on the character of a residential area.*

Emerging policy CL16 in the Replacement Local Plan suggests that:

Planning Permission will be granted for the establishment of day care facilities for pre-school children and after school and holiday care facilities for school children provided that:

- a) the activities would not cause an unacceptable level of disturbance to people living nearby.
- b) traffic and car parking generated by the development would not have an unacceptable impact or be a hazard to road safety;
- c) the development and its environs enable a satisfactory standard of day care facilities.

Further guidance is contained in the approved 'Planning Policies for Day Nurseries' SPG.

Revised vehicle parking standards adopted in September 2002 for class D1 uses outside the Central Commercial Zone would require a maximum allowance of 1 space per 22 square metres. This would give a maximum requirement of 7 spaces in this case but none are available within the site.

### **Representations**

The application was advertised by site notice and the occupiers of nearby properties were notified. I have received one letter of objection in response which has been

signed by 40 residents from 21 houses in Broadhurst Street and Portman Street. Grounds of objection refer to the following:

- a) traffic congestion and parking would be exacerbated as, in addition to the applicant's premises, there is also a doctor's surgery at 10 Broadhurst Street, the tyre and exhaust centre on the corner at 73 Melton Road and other commercial premises nearby which add to the levels of traffic in the streets.
- b) The addition of further places in the nursery will only add to existing traffic congestion problems, which will have an adverse effect on the safety of residents and the general public.

### **Consideration**

There is an outdoor play area to the side of the property which is enclosed by a high wall to the side of the retail shop at 69 Melton Road and a high flank wall at the rear forming part of the end terraced house at 5 Broadhurst Street. Accordingly I do not consider that an increase in the number of children would be likely to give rise to problems of noise adversely affecting the amenity of adjoining residents.

It was noted, at the time the last application was considered, that a condition of the previous consent (19921689) was not being complied with. This was condition 6 which required that:

"The vehicular entrance from Broadhurst Street near the junction with Melton Road shall be closed."

There is a strip of land about 4 metres in width between the back of the footway to Melton Road and the frontage of the building which has been asphalted over to provide an area of hardstanding. Whilst there is an iron railing fence around most of this area it is not totally enclosed enabling access directly off the corner in Broadhurst Street, and it is used by parents arriving by car when picking up and dropping off children. There is no turning area and vehicles entering this space have to reverse out on to Broadhurst Street with the obvious dangers that this presents. The unauthorised use of this area was brought to the attention of the applicant previously but it is still being used.

The applicant has stated that one of the criteria for parents to benefit from the Neighbourhood Nursery Initiative scheme is that they are on low incomes and are therefore unlikely to have cars. Drop off and pick up times, which only take a few minutes, tend to be staggered over a the day which spreads out any demand on parking.

Nevertheless, I am concerned that it would be extremely difficult to ensure that the additional child spaces remained available for low-income families only with the assumption that these families would not travel by car. Planning conditions could not be used to restrict the increase in numbers in this way because of the difficulty in enforcement. I am concerned that an increase in the number of children to 50 could potentially demand an increase in the level of parking as well as traffic movements associated with picking up and dropping off of children in an area that already experiences traffic congestion problems. The unauthorised use of the forecourt still presents a traffic hazard. Due to the high concentration of on street parking in Broadhurst Street, it is likely that parents/carers would park on the yellow lines

(which are there to prevent parking on highway safety grounds) immediately outside the premises on this side street to drop and collect children. Any additional cars would exacerbate this reduction in highway safety.

Members should be minded that the establishment of additional child care provision, particularly in areas highlighted as those of high deprivation with families in need of assistance, is an initiative promoted by government funding. However, in view of the lack of satisfactory off-street parking facilities and the fact that it would be impossible to enforce the allocation of child care places in perpetuity to non-car users, I consider that the proposal would not be in the best interests of highway safety and I would therefore, on balance, recommend that this planning application be REFUSED for the following reason:

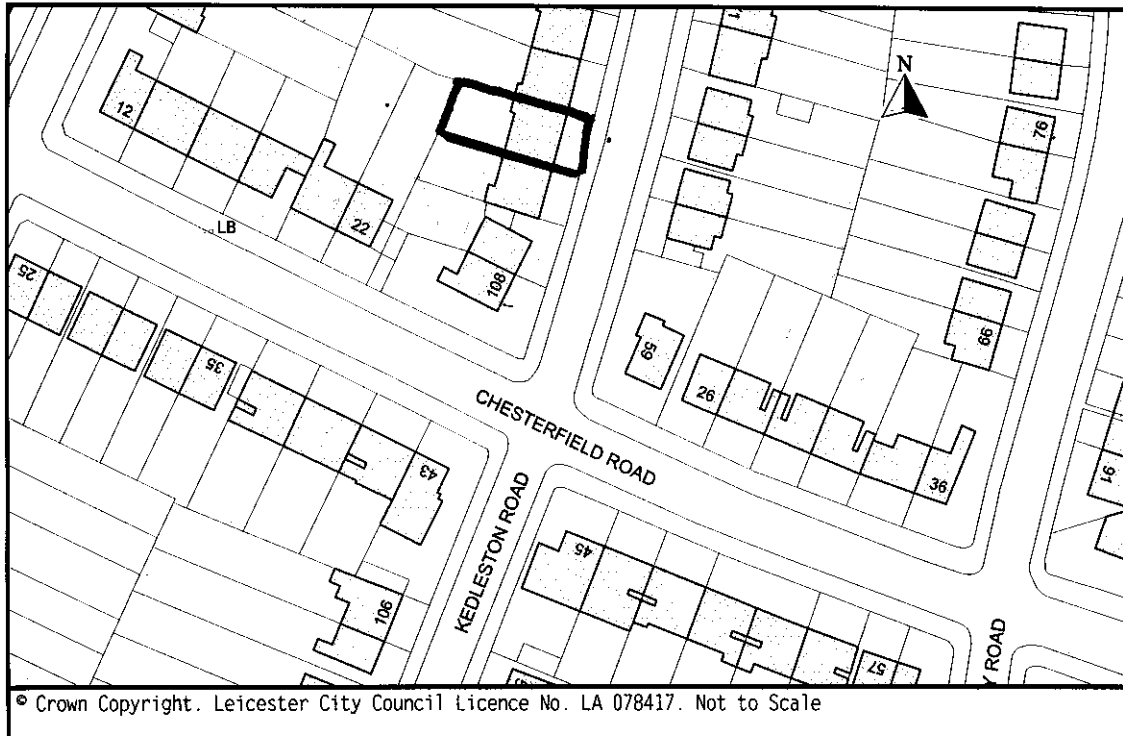
#### REASON

1. The proposed increase in the number of children from 35 to 50 is likely to generate a significant increase in vehicular traffic to the site which, by reason of its lack of satisfactory off-street parking facilities and its location on the corner of Melton Road with Broadhurst Street, would be detrimental to highway safety contrary to the provisions of Policy C8 in the City of Leicester Local PAn.



**APPLICATIONS RECOMMENDED FOR REFUSAL**

<b>20032001</b>	<b>114 KEDLESTON ROAD</b>	
13/10/2003	AREA: E	WARD: <b>Spinney Hills</b>
DEV	RETENTION OF SINGLE STOREY EXTENSION AT REAR OF HOUSE; SINGLE STOREY DETACHED STORE AT REAR	
AS	MR BAGGIS	

**Introduction**

This application was deferred at the last committee meeting for a members site visit.

This application relates to a semi-detached property located on the north side of Kedleston Road, close to the junction with Chesterfield Road. The property is located within a Primarily Residential Area.

See contravention report 20034475C elsewhere on this agenda.

**Background**

A first floor extension to the side of the house has been built, following approval in June 2000 (20000643). Planning permission has been granted for a single storey extension to the rear, which has not been built (200110045).

**The Proposal**

The applicant has constructed a conservatory to the rear of the property, which has a depth of 3.7m and a width of 3m. The conservatory is positioned up to the side boundary with the adjoining semi-detached property (112 Kedleston Road) and is constructed in clear glass with a dwarf brick wall.

The applicant has also constructed a brick built detached store at the bottom of the garden. The store is 3.6m away from the conservatory and therefore planning permission is required. The store is full width of the garden and measures 3.1m (depth) by 8.5m (width). The height is 2.6 metres with a flat roof.

### **Development Plan Policies**

- EN18 Extensions to houses should normally match the existing house in materials, roof form, scale and proportion of openings.
- H6 Within the Primarily Residential Areas, permission normally granted for residential development, subject to criteria.

### **Policy Considerations**

Further guidelines are contained in appendix 5 of the City of Leicester Local Plan, which states:

- For semi detached houses a single storey extension on or close to the boundary of up to 2.4 metres depth will in most cases be acceptable. Deeper extensions may be acceptable in some cases, depending on the orientation of the property and relationship of the extension to windows of the adjoining house. These should not intersect a line taken at 45° from the nearest point of ground floor windows on adjoining or adjacent houses.

There are further guidelines contained in 'A design guide for House Extensions', which state "Extensions should leave sufficient garden space for general use and penetration of light and sun. The recommended minimum rear garden areas are:-

- 1 bedroom house – 50 sq. metres
- 2 bedroom house – 75 sq. metres
- 3 bedroom house – 100 sq. metres

in any event, no more than 50% of the existing rear yard or garden area should be covered by extensions.

### **Representations**

One letter has been received from an occupier of a property to the rear. He considers the store is too big and unsightly. He also states that it over shadows his property and is visually quite intimidating.

Cllr Panchbhaya has requested the application be reported to the Committee.

### **Consideration**

The conservatory is 3.7m deep and is therefore contrary to the above guidelines. Due to its size and position adjacent to the boundary, it is likely to have an unacceptable impact on the occupiers of the neighbouring semi-detached property in terms of loss of light and outlook.

The rear gardens of the properties along this section of Kedleston Road are limited in size. The conservatory and the store reduce the size of the garden to less than 50m<sup>2</sup>, this is well below the minimum of 100m<sup>2</sup> for a three bed roomed house (the original size of the garden prior to the erection of the conservatory and the store was 90m<sup>2</sup>). I consider that the store with a flat roof located at the bottom of the garden has a minimal effect upon the amenities that the occupiers of the neighbouring

properties currently enjoy but with the position of the conservatory its affect is significant.

I have written to the applicant advising that if the conservatory were to be reduced in depth to 2.4m, then it would be acceptable. To date no amended plans have been received.

I consider that the extensions in their current state are unacceptable and that they are contrary to policies and guidelines contained in the Local Plan. I also consider that they have a detrimental effect upon the amenities currently enjoyed by the occupiers of the neighbouring properties.

I therefore recommend REFUSAL for the following reasons:

#### REASONS

1. The rear extension because of its position and depth, would be detrimental to the amenities of the adjoining house, 112 Kedleston Road, by reason of loss of light and outlook and would thereby be contrary to policies EN18 and H6 and guidance in the City of Leicester Local Plan.
2. The detached store in conjunction with the conservatory results in over development and would therefore have an unacceptable impact on the occupiers of the neighbouring properties, and as such, is contrary to policy H6 of the City of Leicester Local Plan.

<b>APPLICATIONS RECOMMENDED FOR REFUSAL</b>	
<b>20031986</b>	<b>OAKLAND ROAD, KNIGHTON JUNCTION LANE, CLARENDON DYE WORKS</b>
09/10/2003	AREA: W                      WARD: <b>Freemen</b>
COU	CHANGE OF USE FROM LIGHT INDUSTRY (CLASS B1) TO COMMUNITY CENTRE (CLASS D2); EXTENSION AT REAR
PSG	MR KULLER

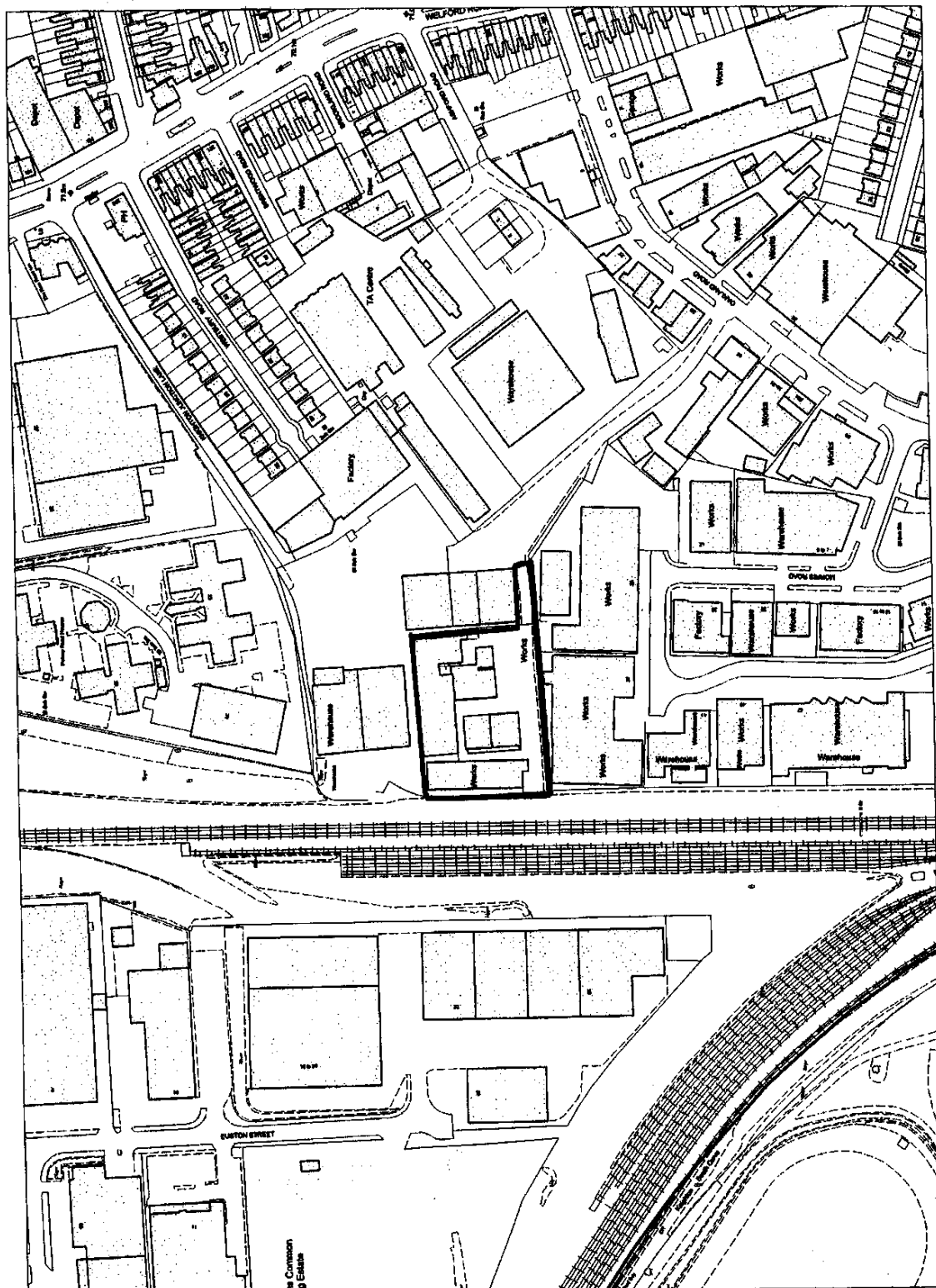
#### **Introduction**

This proposal was deferred at the Committee of the 6<sup>th</sup> January to enable a site visit to be undertaken.

The premises lie within a Primarily Employment Area in both the adopted Local Plan and the Replacement Local Plan and were previously used as a dye works and have latterly been used as a series of small B1 units. The access would be via Oakland Road and the area contains a whole range of industrial users including dyeing and finishing, shoe manufacturing, plumbing supplies, potato merchants, packaging and bus maintenance and garaging.

#### **The Proposal**

The applicant intends to use the premises for social and cultural and traditional events including weddings, engagements, anniversaries, birthdays, Diwali etc. Educational classes , creche facilities, evening classes and health and social care facilities would also be encouraged. It is proposed that it would open Mon - Friday



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9.00 hrs to 2400hrs, Saturday 7.30hrs - 02.00hrs and Sunday 7.30hrs - 0200 hrs. The centre would be open 7 days per week, 365 days per year.

The main hall ( 621 sq m) of the centre would be incorporated into the existing single storey building which lies to the west and runs parallel to the railway line. It is also proposed to extend the building at its southern end by constructing a two storey building ( 377 sq m) to include reception facilities , foyer, kitchen , bar and further hall .

The remaining buildings (1859 sq m) would continue to be used for industrial purposes.

Parking for 51 vehicles is shown within the curtilage of the site.

### **Development Plan Policies**

- E4        Within Primarily Employment Areas permission normally granted for B1, B2 and B8 uses and not for changes to other land uses.
- C3        Permission normally granted for community development except where proposal inadequate or adverse effects on amenity or traffic.

### **Policy Considerations**

Planning Policy Guidance: 6: Town Centres and Retail Developments ; Advises that leisure uses where they cannot be accommodated in local centres should be located on sites highly accessible to public transport.

In both the adopted and replacement Local Plan the site is allocated for employment use. Policy E03 states that planning permission will not be granted for changes to other uses unless it can be shown the land and buildings are no longer viable for employment purposes; the use is ancillary or complementary to an existing B- Class Use; the use would provide a significant number of jobs; redevelopment of the site would make an important contribution to improving the wider urban environment; the use proposed is a local community facility for which there are no alternative sites available , for which there is a demonstrable need in the area and which will not have unacceptably adverse effects on existing businesses ".

Policy CL11 of the Replacement Local Plan states that community and leisure facilities should be located where they are accessible by a choice means of transport. Planning permission will be granted provided that the scale and range of activities and the impact of the peaks of demand in terms of numbers of visitors do not cause an unacceptable level of disturbance to occupiers of nearby properties in accordance with the provisions of policy ST05; and the flow of traffic and amount of car parking would not have an unacceptable impact through traffic congestion or be a hazard to road safety.

Policy AM 12 of the replacement Local Plan states that proposals for parking provision for non- residential development should not exceed the maximum standards in the Supplementary Planning Guidance :Vehicle Parking Standards : This advises that in Zone 4 a maximum of 1 space per 70 sq m gross for D2 Uses; and 1 space per 40 sq m and 1 space per 70 sq m for B1 and B2 industrial uses A maximum 50% target reduction, after considering criteria such as anticipated levels of car use, access by other means of transport, availability, accessibility and safety

of existing or alternative car parking provision, is encouraged. The proposed community use would therefore require a maximum of 46 spaces and the remaining industrial uses 26 – 46 spaces

### **Consultations**

Network Rail : No objection subject to conditions.

### **Representations**

6 Letters objecting on the grounds of a) inappropriate location for a community centre within a large established industrial area b) inevitable conflict between businesses and the centre c) increase in traffic off a private road d) potential increase in vandalism at late hours e) problems for emergency vehicles trying to access the site.

17 letters of support from various community groups city wide.

Letter of support from Councillor Debbie Almey

Letter of support from Councillor Dale Keeling who claims another local venue is much needed and would be appreciated by the community as a whole.

Letter of support from Councillor Gill due to the overwhelming needs of the local community. Considers proposal is in accordance with Policy EO3, objections raised are without merit or could be easily addressed, the site has ample on site carparking, and was assured that lighting and security could be introduced as necessary.

### **Consideration**

The site lies within a Primarily Employment Area and in particular Policy EO3 of the RLP is relevant in that it recognises that proposals for community facilities are being sought in these areas. However this is only where there is a demonstrable local need for the facility and where the viability of adjoining businesses is not compromised.

The applicant has now produced letters of support from different communities across the city. These refer to City wide not local need.

The proposed use is within the heart of the estate and served by a private road, not in the ownership of the applicant, which deteriorates in its construction as it reaches the rear of the site. In practical terms such a use would be better on the edge of the estate thus avoiding any conflict with adjoining users. The letters of objection raise specific concerns regarding conflict over access and late night activities. I consider that there is the potential for considerable impact upon the functioning of the adjoining units through increased vehicle activity and parking which can affect business functions and the delivery of goods to and from premises. With regard to late night noise it should be possible to ensure the building is adequately soundproofed and because of its siting within the estate not to cause problems for residents, the nearest of which are in Westbury Road.

The maximum parking requirement overall for the community and industrial uses is between 72-92 spaces. 55 spaces are indicated on the plan. The numbers generated by the community use would increase compared with the industrial use of that building; however maximum community use may not be at the same time as the industrial use. The submitted parking layout is considered unacceptable in design terms; however the applicant is amending this part of the proposal.

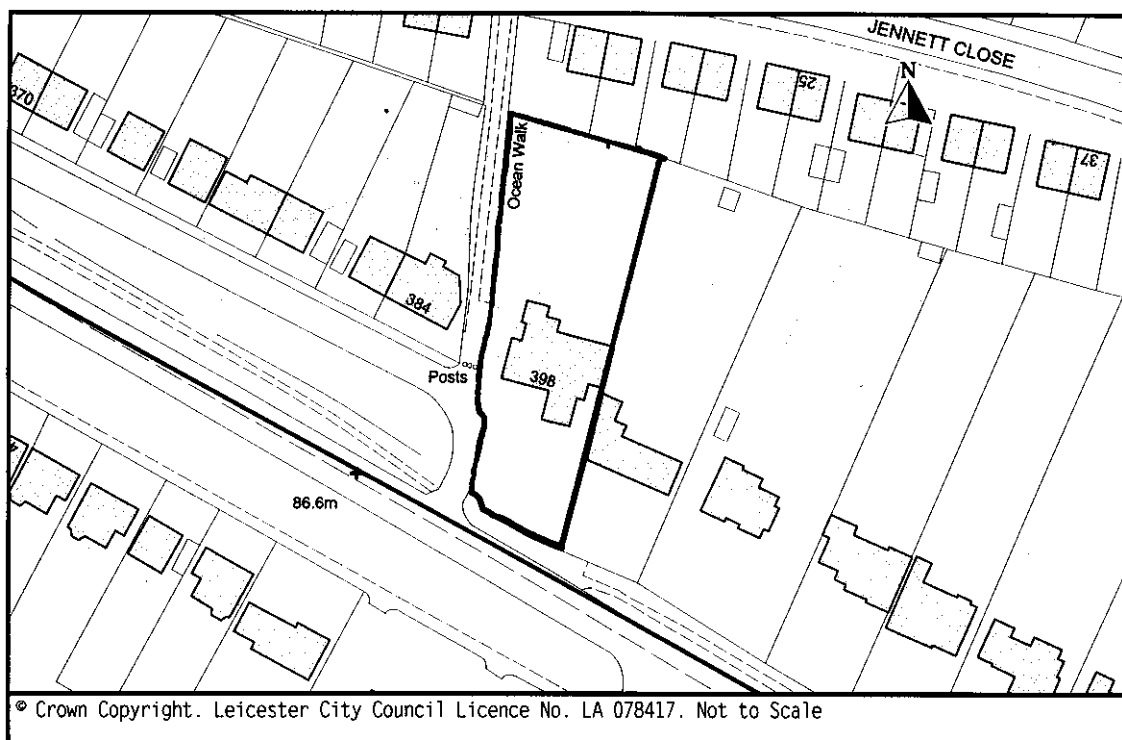
In conclusion I consider that the proposed site is not acceptable for such a use and would have a harmful effect upon the adjoining area, particularly as the needs expressed are from city wide organisations and not locally based groups. The applicant still has not demonstrated in need terms why it should be accepted as a major departure from its designation as an employment area. I recommend REFUSAL for the following reasons :-

#### REASONS

1. The site lies within a Primarily Employment Area and there is a presumption against non-industrial uses unless it can be demonstrated that the proposed use is for a local facility for which there are no alternative sites. Insufficient evidence has been submitted with regard to other sites or to local need as required by Policy EO3 of the Replacement Local Plan , therefore the proposal would result in the loss of employment land which would be contrary to Policy E4 of the City of Leicester Local Plan 1994 and EO3 of the Replacement Local Plan.
2. The proposed use by reason of its traffic generation and general disturbance will have an adverse impact ,particularly in terms of parking and deliveries, upon the functioning of adjacent businesses. The proposal would therefore be contrary to Policy E4 of the City of Leicester Local Plan 1994 and EO1 and EO3 of the Replacement Local Plan which seeks to maintain such areas for employment opportunities.

**OTHER APPLICATIONS RECOMMENDED FOR APPROVAL**

<b>20031544</b>	<b>398 UPPINGHAM ROAD</b>	
07/10/2003	AREA: E	WARD: <b>Thurncourt</b>
DEV	DEMOLITION OF BUNGALOW; TWO STOREY RESIDENTIAL DEVELOPMENT COMPRISING SIX SELF CONTAINED FLATS WITH ANCILLARY PARKING (AMENDED PLANS)	
BC	MR S SMITH	

**Introduction**

The application site comprises a vacant bungalow on the north side of Uppingham Road, (a classified road). The site is within a residential allocation in the local plan and is surrounded by two storey residential properties. Vehicular access to dwellings at 370 to 384 Uppingham Road is via a slip road, which is not an adopted highway. Existing vehicular access to the application site is to the west of the site off Uppingham Road. Directly abutting the site to the west is a pedestrian route, Ocean Walk, linking Uppingham Road to Jennett Close. The land slopes from east to west downhill.

**Background**

There are no recent planning approvals on the site of relevance to the proposal.

**The Proposal**

The amended proposal is to demolish the existing bungalow and redevelop the site with a two-storey building comprising 6 two-bedroomed flats with 3 units on each floor. 8 parking spaces are to be provided on the front: 6 for the new occupiers and 2 for visitors. Vehicular access will be off Uppingham Road adjacent to 400 Uppingham Road.



The original scheme proposed a three-storey building with a void on the second floor. Six parking spaces were to be provided at the front with vehicular access off the slip road.

**Development Plan Policies**

- EN4 No permission for poor quality or inappropriate designs. High quality design expected in City Centre and Conservation Areas.
- EN55 New developments should have a high standard of landscaping. Full and accurate details should be submitted.

- H6 Within the Primarily Residential Areas, permission normally granted for residential development, subject to criteria.
- H8 New residential development density should normally be compatible with the area. Higher densities may be appropriate in some cases.
- R1 Applications for residential development only permitted where open space provided and related to the development.
- T12 Permission not normally granted unless adequate provision for parking of vehicles including cycles off the highway.
- H3b The Council will encourage the provision of access housing, normally close to shops and public transport and on level ground.

### Policy Considerations

H6 states that planning permission in residential would be acceptable unless it would result in the following:

- (b) It would prove detrimental to the amenities of occupiers of nearby properties by reason of substantial loss of privacy or light.
- (c) Proposed access/car parking to the site is unsatisfactory.
- (f) It would result in a loss of trees of high amenity value.

Supplementary Planning Guidances (SPGs) on Standards for Self Contained Flats and Access Housing Policies and Standards sets out criteria for new residential development.

The SPG on vehicle parking standards suggest that that a maximum of 9 spaces should be provided, but reduction in spaces should be assessed on individual cases according to the criteria set out below:

- Access by other means of transport;
- The availability of alternative parking arrangements;
- The benefits of imposing traffic constraint;
- Relationship to other nearby uses;
- Anticipated levels of car use.

*Policy AM13 of the RCLLP states that reductions from the maximum standards can be required in specific circumstance e.g. in locations within 250m walking distance of good public transport and in areas which are accessible by means of transport other than the private car.*

Appendix 5 of the CLLP provides guideline figures for distances between dwellings, notably the provision of 21 metres between facing windows, 18 metres for oblique angles, and 15 metres to gable walls, to safeguard privacy and overlooking

### Consultations

None.

### Representations

I have received 7 letters from the occupiers of properties at 370-382 Uppingham Road objecting to the proposal on the following grounds:

1. The proposed flats would not be in keeping with the immediate area which is a mature residential area comprising semi-detached and detached family homes;

2. The slip road off Uppingham Road serving the properties at 370-384 Uppingham Road is a private road, which is maintained by the occupiers of the said properties. Hence, the proposed vehicular access off the slip road to serve the development would be sited on land not currently under the ownership of the applicant or the City Council;
3. It is likely that future occupiers including construction traffic would use the slip road to gain access to the new development leading to wear and tear of a road that is privately maintained resulting in additional cost to occupiers of 370-384;
4. Increased traffic on the slip road to the detriment of highway safety;
5. Insufficient parking provided for 6 flats which will result in visitors and future occupiers parking on the slip road since the A47 Uppingham Road would not afford any off-site parking to the detrimental of amenities of the occupiers of properties at 370-384;
6. Insufficient details in respect of materials for the development;
7. The posting of site notices on lamp post well away from properties effected by the development is not appropriate;
8. Devalue existing properties in the area (not a material planning consideration)

Councillors Allen and Maw object to the proposal on the grounds of over development, compromising road and footpath safety, loss of privacy by overlooking into adjacent houses, and the design of the building being out of character with the area.

Mr Burrows of the Leicester Civic Society has expressed concerns in respect of inadequate storage space for fridge\washing machine. In addition, no provision made for access for persons with disability.

### **Consideration**

The site is within a residential allocation in the local plan and therefore the principle of the residential development is acceptable subject to siting and design of the building, access, parking and representations.

There is no defined building line with adjacent properties staggered in their siting. The proposed building will not project forward of the dwelling at 400, but will have a larger footprint than the existing bungalow. The original scheme proposed windows to principal rooms on the side elevation overlooking the rear garden of 400, but these have been amended to obscured glazing to overcome loss of privacy. I am satisfied that sufficient separation distances have been provided to protect the amenities of the occupiers of the adjacent properties. I was also concerned with the original three-storey block, which in my view would have been out of character with the surrounding built form comprising two storey dwellings. The amended scheme shows the deletion of the second floor and in my opinion the design of the building relates well with the adjacent house at 400 Uppingham Road and the street scene.

The original scheme proposed a vehicular access off the slip road, which raised a number of objections from occupiers of dwellings at 370 – 384 over the future maintenance of the unadopted slip road, additional traffic generation to serve the development to the detriment of highway safety, including construction traffic. In my view the amended scheme with the proposed vehicular access directly off Uppingham Road eliminates the concerns raised by the objectors. In my opinion the amended access provision will minimise the impact on highway safety.

I acknowledge the concerns raised by the objectors in respect of on street parking pressures on the adjacent slip road. However, the amended scheme provides 8 parking spaces resulting a shortfall of one space. The site is located adjacent to a good public transport route and policies in the local plan, RCLLP and SPG relating to parking suggest that reductions from the maximum standards would be appropriate in such location and where the site is located on a main public transport route. In my view the proposal is unlikely to cause congestion or aggravate parking problems in the area significantly.

The scheme provides a semi-private amenity area to serve the development that I consider acceptable. The proposal will result in the loss of some fruit trees in the rear garden, which is regrettable.

The aim of local plan policies is to encourage a variety of residential accommodations to meet the needs of the City and this includes flatted accommodation that complies with policies in the local plan and SPG on Self Contained Flats. The size of the development does not need to provide access units to comply with SPG on Access Housing.

Occupiers of properties in the surrounding area were notified of the proposal. Site notices were also displayed in the vicinity of the application site to comply with the statutory requirement under the Town & Country Planning (General Development Procedure) Order 1995.

In conclusion, the design of the scheme is acceptable, and a satisfactory level of residential accommodation will be provided. The proposal will not result in congestion in the immediate area. The proposal complies with policies in the local plan and I therefore recommend **APPROVAL** subject to the following conditions:

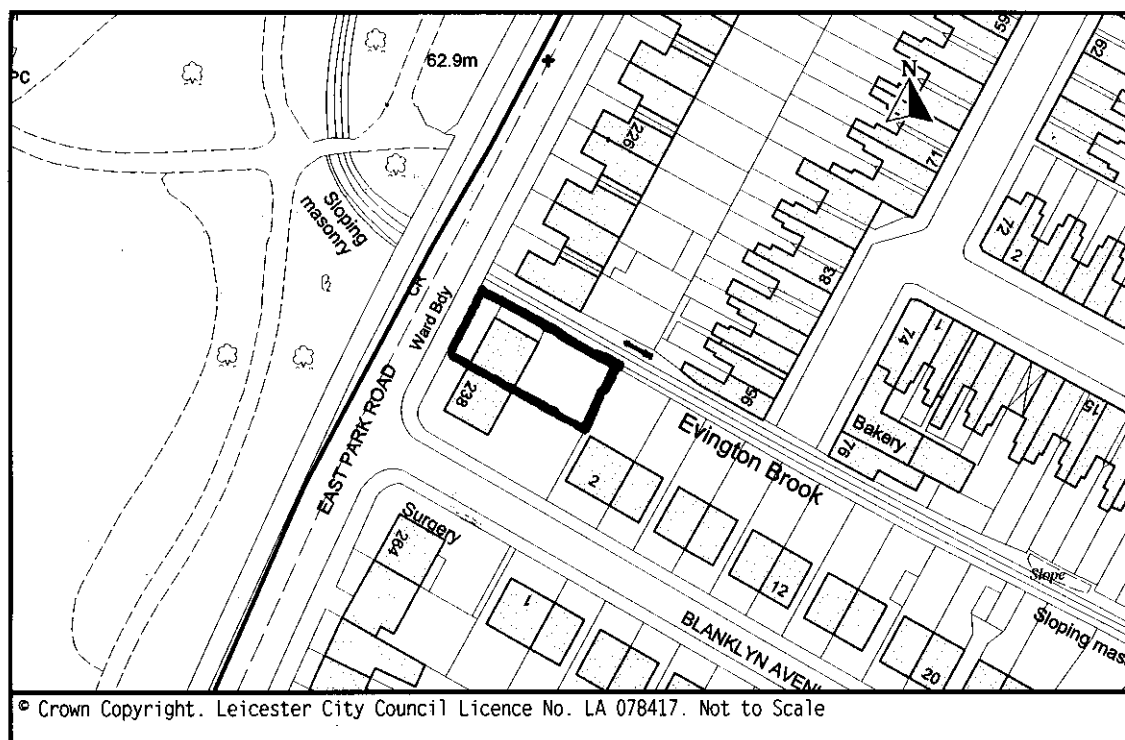
#### CONDITIONS

1. (0101) START WITHIN FIVE YEARS
2. (0302) MATERIALS TO BE AGREED (FOR; %) (proposed new dwellings and garages; EN17)
3. (0201) SIGHT LINES TO ACCESS (%) (T29)
4. (0812) TURNING SPACE WITHIN SITE (%) (H6 AND H9)
5. The parking spaces shown on the approved plans shall be provided at the time of development and shall be retained.  
(To secure adequate off-street parking provision, and in accordance with policy T12 of the City of Leicester Local Plan.)
6. Two parking spaces shall be marked out and only used by visitors before the development is occupied and shall be retained.  
(To secure adequate off-street parking provision, and in accordance with policy T12 of the City of Leicester Local Plan.)
7. (0205) PROVISION OF FOOTWAY CROSSING(S) (%) (T29)

8. (0206) ALTERATIONS TO FOOTWAY CROSSING(S) (%) (T29)
9. All windows on east elevation of the development shall be of obscured glazing with sealed units.  
(To protect the amenity of the adjoining properties and in accordance with Policy H6 of the City of Leicester Local Plan.)
10. (0903) PLANS AMENDED (AMENDED BY; RECEIVED ON) (drawings nos. 5628\003A and 5628\004A; 14th November 2003 and 5286\00E dated 19th December 2003)

**OTHER APPLICATIONS RECOMMENDED FOR APPROVAL**

<b>20032079</b>	<b>236 EAST PARK ROAD</b>
10/11/2003	AREA: E WARD: <b>Spinney Hills</b>
COU	CONTINUATION OF USE OF DAY NURSERY WITH 45 SPACES (RENEWAL OF PLANNING PERMISSION 20021505)
JP	SALLY SWEENEY



### Introduction

The application relates to a semi-detached property, located opposite Spinney Hill Park. It is located within a Primarily residential Area and within the Spinney Hill Park Conservation Area.

### Background

In 1988 limited period planning permission was granted for a change of use of the property from residential to a day nursery. In 1990 approval was granted for the continuation of the use subject to conditions. Planning permission was granted in 1999 for a single storey rear extension.

In October 2002 limited period permission was granted for the variation of condition 2 attached to the 1990 approval to increase the number of nursery places from 30 to 45 (20021505). This expired in October of this year.

### The Proposal

Continued use of the day nursery for up to 45 children is proposed. The nursery has been involved with the Neighbourhood Nurseries Initiative (NNI) – a scheme which provides childcare to families who would otherwise not be able to afford such care. The applicants have advised that the 15 additional places have all been allocated to local families as part of the NNI scheme and that one of the criteria of the NNI scheme is that the children allocated the spaces must be from the local area.

### Development Plan Policies

C8 Permission normally granted for the establishment of day care facilities for children under 8 subject to criteria.

### Policy Considerations

The Local Plan policy states that Planning permission will normally be granted for the establishment of day care facilities for children under 8 provided that:

- (a) The activities which take place do not cause nuisance to people living nearby;
- (b) Traffic going to and from the building does not cause nuisance or danger to other people using the streets nearby or to children attending the nursery.
- (c) There is no adverse effect on the character of a residential area.

Further guidance is contained in the approved 'Planning Policies for Day Nurseries' SPG.

### **Representations**

I have received 2 objections, with one signed by 10 people, objecting to the proposal on the following grounds:

- Exacerbated parking congestion – parents dropping off and collecting children block driveways, and disturb the flow of traffic along East Park Road
- Increase in noise pollution
- Use not appropriate in residential area
- Area has sufficient nursery facilities and does not require this service

I have also received 9 letters from the parents of children who attend the nursery, stating that they benefit from the nursery initiative. The letters mention that if there was no place for their child at the nursery they would not be able to continue working/studying as it is only the availability of NNI placements that has made this possible. The letters state that they live locally, which enables them to walk to the nursery.

### **Consideration**

The nursery has been operating with 45 children for the past year. It is apparent from the objections received that the area is heavily parked and parents whose children attend the nursery do often use private cars causing problems to residents in the immediate local area.

Having said that, the proposed 15 places are taken up by local residents (one of the criteria of the NNI placement), who attend the nursery on foot. The letters received in support of the continued use are from residents who would be within walking distance of the nursery.

East Park Road is a classified road and the site cannot provide any off street parking. I do not consider that reducing the number of children back to 30 would significantly result in an improvement in the situation, given that the majority of the 15 places removed live locally and attend on foot.

The continued use is unlikely to impact on neighbouring properties in terms of noise disturbance, would not be detrimental to the character or appearance of the Spinney Hill Park Conservation Area, and benefits the local community. I therefore recommend APPROVAL subject to the following condition:

### **CONDITION**

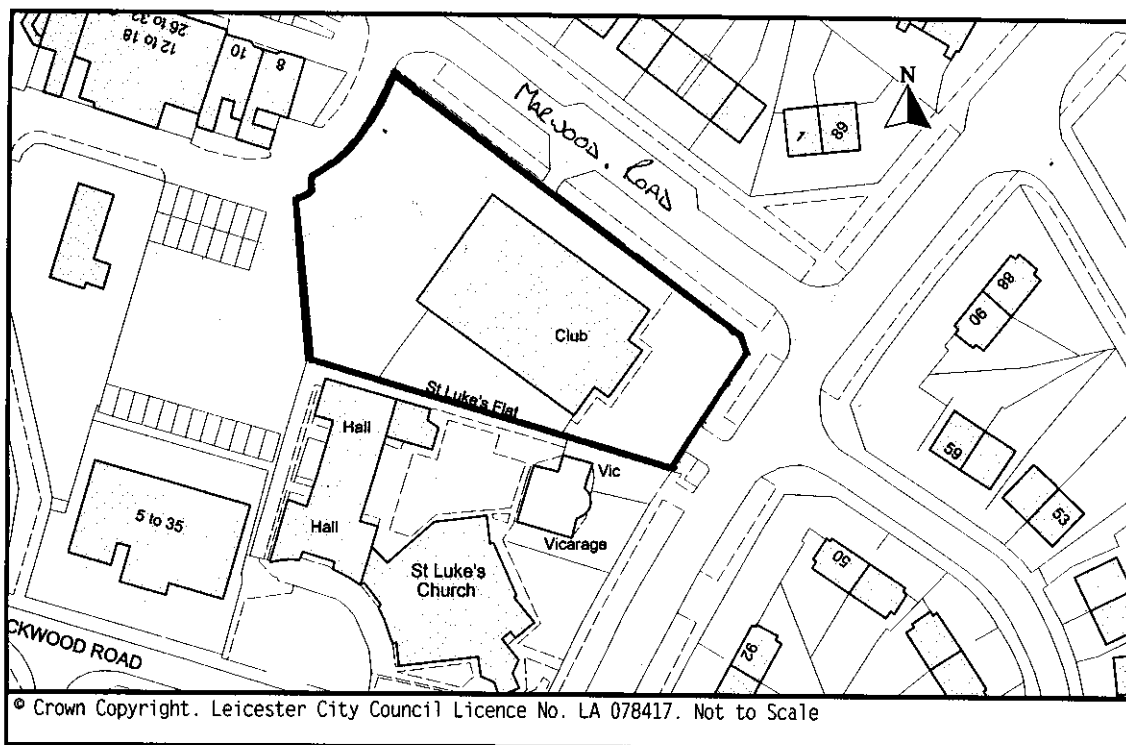
1. No more than 45 children shall be accommodated on the premises at any one time.  
(In the interests of the amenity of nearby occupiers and traffic safety and in accordance with policy C8 of the City of Leicester Local Plan)

## NOTE FOR APPLICANT

1. All other conditions attached to planning consent 19900628 remain in force unless varied by other separate planning consents.

**OTHER APPLICATIONS RECOMMENDED FOR APPROVAL**

<b>20032133</b>	<b>STOCKING FARM POST OFFICE, 2A MARWOOD ROAD</b>	
12/11/2003	AREA: C	WARD: <b>Abbey</b>
RMS	VARIATION OF CONDITION 7 OF PLANNING PERMISSION 20011624 (TO ALLOW USE TO BE CARRIED ON BY ANOTHER PERSON)	
AP	TARJINDER SINGH SIDHU	

**Introduction**

The application relates to part of what was formally called the Beaumont Leys Working Men's Club located on the corner of Halifax Drive and Marwood Road. The site is allocated for community, education and leisure in the City of Leicester Local Plan.

The site is alongside the purpose built Marwood Road local shopping centre.

**Background**

Planning permission was granted by the Development Control Sub-Committee in December 2001 (20011624) for the change of use of the working men's club (Class D2) to working men's club and retail (No use class).



Although originally recommended for refusal it was decided following further representations from the tenants association and the National Federation of Sub-Postmasters that the retention of a post office at this location was important for the local community and its change of location and inclusion within a small retail unit would ensure the viability of the post office and would support and complement the local shopping centre.

Condition 7 of that consent restricted the use to a personal consent in the name of the postmaster at that time.

### **The Proposal**

The applicant proposes to vary condition 7 of planning approval 20011624 to allow another person to carry out the use approved of working men's club and retail (no use class)

### **Development Plan Policies**

- S8 Retail development outside Central Shopping Core will normally be confined to shopping centres shown on the Proposals Map.
- S13 Use for class A1, A2 and A3 for local facilities outside defined centres considered on merit against criteria.
- C4 Development of community buildings for other uses not normally permitted unless there is no longer a need to retain the facilities.

### **Policy Considerations**

Policy R05 of the Replacement Local Plan states that retail development outside the Central Shopping Core will be confined to the existing and proposed shopping centres shown on the proposals map.

Policy R08 states that planning permission will not be granted for new local shops and facilities falling within use classes A1, A2 and A3 outside the centres identified on the proposals map unless the proposal meets certain criteria.

### **Consideration**

The individual to whom the personal consent was granted in 2001 now wishes to leave as owner of the shop and post master. The applicant wishes to take over this role. I consider the retention of the post office to be very important in this area and the allowance of a new person will maintain this provision.

I consider the proposal to vary the condition to be acceptable. I do not consider that it is necessary to restrict the use to one person again given that the use has started and condition 7 requires there to be a post office counter facility within the retail area. I therefore recommend APPROVAL subject to the following conditions:

#### **CONDITIONS**

1. (0101) START WITHIN FIVE YEARS

2. All parking areas shall continue to be marked out in accordance with details that have been agreed in writing with the City Council as local planning authority, and shall be retained and not used for any other purpose. The retailing activity shall cease if the parking is not available for customers accessing the shop.  
(To ensure that parking can take place in a satisfactory manner and in accordance with policy S13 of the City of Leicester Local Plan.)
3. (0811) LOADING AND UNLOADING WITHIN SITE
4. (0812) TURNING SPACE WITHIN SITE (%) (S13)
5. The facilities for the provision for the needs of disabled people, including access to and within the development, sanitary conveniences and parking and facilities shall be retained.  
(To ensure adequate provision for the needs of disabled people, and in accordance with Policy EN41 of the City of Leicester Local Plan)
6. No more than 141 sq metres gross floorspace of the building shall be used for retail purposes (Class A1 of the 1987 Use Classes order).  
(The City Council as Local Planning Authority would wish to give further consideration to the impact of further additional retail floorspace on the existing local centre.)
7. The retailing activity shall not operate unless a post office counter facility operates within the approved retail area.  
(The City Council would not wish to see a general take up of the permission and in the interest of vitality and viability of the local shopping centre.)

## NOTE FOR APPLICANT

1. Any extension or additional retail floorspace would be subject to a further planning application and may not be viewed favourably. Further applications would also be required for alterations to the building, such as a shopfront, or possibly for advertisements.

<b>DEVELOPMENT BY THE CITY COUNCIL</b>	
<b>20031578</b>	<b>UNIVERSITY ROAD, DE MONTFORT HALL, LAND ADJACENT</b>
	AREA: C                      WARD: <b>Castle</b>
DEV	CHANGE OF USE FROM VACANT LAND TO CAR PARK
SB1	LEICESTER CITY COUNCIL

## **Introduction**

The application site has an area of 2850 sq. metres and is located south of the entrance drive to the rear of the Hall. It is bounded on the other three sides by University Road, Peace Walk and Victoria Park. It was at one time occupied by glasshouses. But has been unused for some time. Part of the site is hard surfaced; the remainder is overgrown. It is surrounded by mature shrubs on the University Road and De Montfort Hall boundaries and by a hedge on the other two boundaries.

The site is allocated for Community and Leisure uses and is adjacent to the central commercial zone

## **Background**

Several refurbishments and expansions to the Hall have taken place over the last few years.

## **The Proposal**

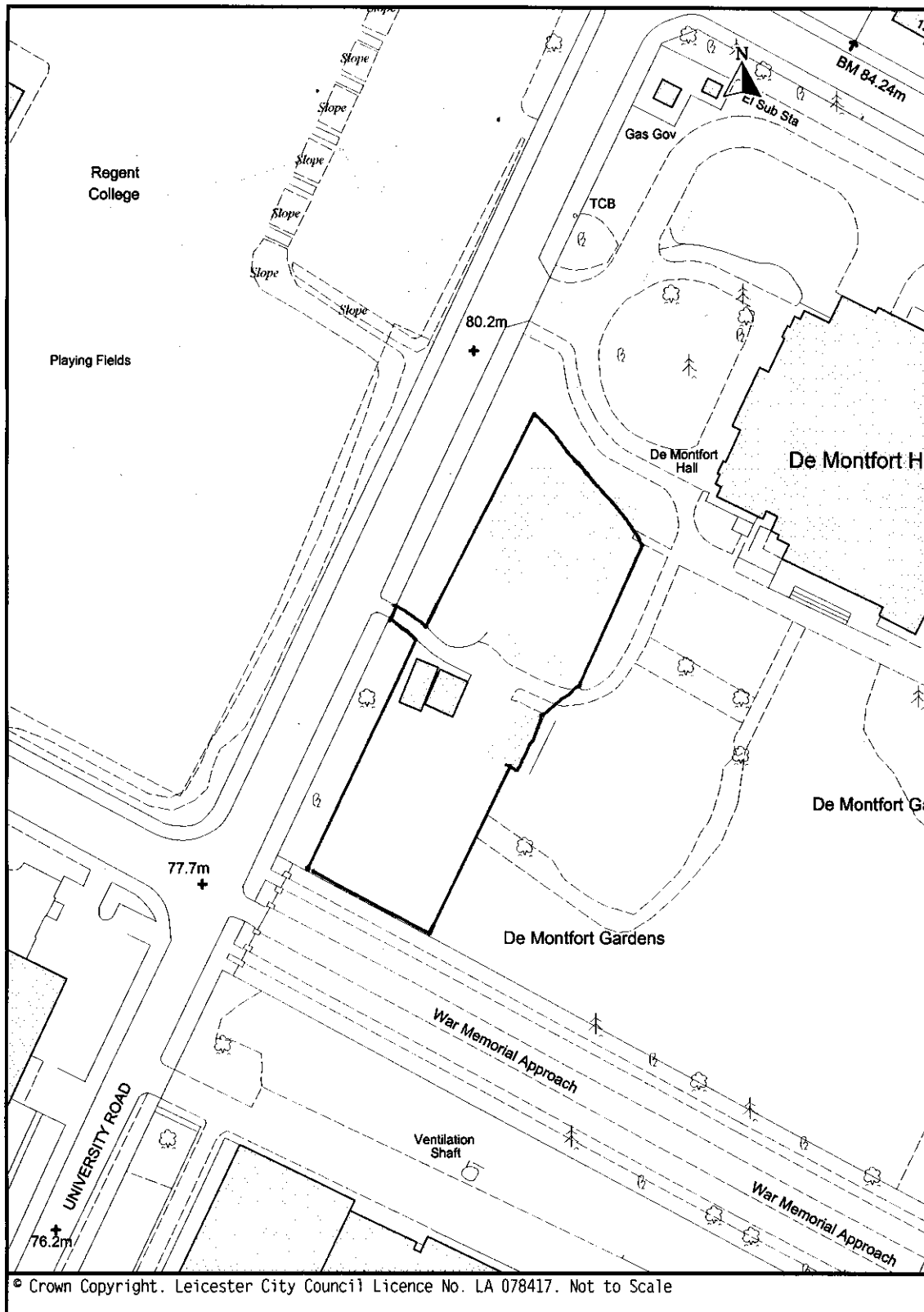
The proposal is to provide 101 car-parking spaces. The vehicular access would be from University Road, which is an existing access. Pedestrian access would be on the Victoria Park side. The existing shrubs and hedges would remain. The car park would be illuminated by 4 street lighting columns. The existing kerbs to the entrance will be relaid.

The car park would be for the use of DMH patrons in the evening between 6pm and midnight. The car park will have CCTV surveillance and will be stewarded at all times when it is open, preventing its use to anyone without a valid ticket. Pre-booking from the ticket office at the time of ticket purchase would control the parking. It is predicted that the majority of patrons would arrive after 7pm. The car park would not be available for coaches and equipment vehicles except for a two-week period during the festival in August, for which it is understood the land has previously been used.

The car park would also be available to Leicester University for specific events such as graduations and open days. The access and egress gates would be locked at all times except when specifically required.

## **Development Plan Policies**

- T13 Car parking areas shall provide extra wide spaces for disabled drivers.
- T14 Surface-level car parks shall be appropriately landscaped and surfaced, and satisfactorily provide for pedestrians.
- T15 Permission not normally granted for car parking where safety provision inadequate, including pedestrians and vehicle security.



- T17 Bicycle parking facilities to be provided in a form and location allowing surveillance, improving security for cycles and people.
- T27 Development not allowed if traffic generated would endanger pedestrians and cyclists and in particular schoolchildren.
- T29 Development shall create a safe and convenient environment for pedestrians on paths within the site and on footways alongside.

EN3 Development adjoining public spaces or thoroughfares must provide positive and attractive built frontages.

### **Policy Considerations**

Policy AM15 of the Draft Replacement Local Plan (2<sup>nd</sup> deposit) states that outside the Central Commercial Zone, further additional contract and public car parking not associated with new development, will only be considered if travel needs cannot be met in any other way and it is demonstrated that a shortage of provision is having a detrimental impact on business or commercial interests, or that excessive on-street parking is having an adverse impact on highway safety or local amenity.

PPG 13 and the SPG on vehicle parking standards both encourage the use of alternative modes of transport, and recommend that parking provision for D2 uses such as Concert Halls over 1000 sq. m in size should be a maximum of 1 space per 22sq m. This equates to approximately 182 parking spaces for De Montfort Hall.

### **Representations**

*One representation has been received, from a park-user, who states that the existing parking arrangements on the Coach Drive are unsatisfactory because of the danger to pedestrians. The writer would support the application if there was a corresponding reduction in parking on the coach drive, and if the car park could be used by the University during the day, in order to further reduce parking on the coach drive.*

*Councillor Almey has requested that this application be referred to Committee.*

### **Consultations**

*The Conservation Advisory Panel were consulted and have no objections in principle, but requested that the design of the lamp columns should be in keeping with the listed buildings and designed so that light pollution is minimised.*

### **Consideration**

*There are two main issues to be considered: whether the proposal accords with local plan policies, and if it does, the impact on the surrounding area in terms of highway and pedestrian safety, and visual amenity.*

#### Conformity with local plan

*Policy AM15 allows for the provision of further public and contract car parking where it can be demonstrated that the lack of parking is having an adverse impact on commercial or business interests or on highway safety.*

*The capacity of De Montfort hall is 2,200, and attendances are increasing. Parking currently takes place on the two pay and display car parks on Granville Road, which accommodate 125 cars. The coach drive along the northern perimeter of the park acts as an overflow car park and accommodates 150 vehicles. There is limited disabled parking adjacent to the Hall.*

*It is estimated that 80% of De Montfort Hall customers arrive by car. The majority therefore have to seek street parking in the area. This is inconvenient for customers, local residents and businesses, and is also insecure. There have been a number of cases of car crime in the area, and a number of customers have had their cars broken into while parked on Victoria Park. The Hall has received complaints from users who are unable to find a parking space. The use of the coach drive, which started as an occasional overflow but is now used regularly is unsatisfactory, partly because there is no segregation of vehicles and park users and partly because its long shape makes surveillance difficult. The conflict with park users does not apply so much at night but can be a problem during the day. Leicester University also books the coach drive for parking on a regular basis. The provision of alternative parking during the day could therefore benefit park users.*

*The Hall is within walking distance of the London Road bus routes. Welford Road bus services are about 10 minutes walk away, and the railway station is about 15 minutes walk away. However, the usefulness of public transport is limited by the fact that concerts do not finish until after most public transport has ceased.*

*It is proposed that Leicester University would use the car park for events such as graduation and open days. It would not be used as a commuter car park by the University. If members are minded to grant permission, it is recommended that a condition be attached to control the use of the car park for events not in association with the use of De Montfort Hall.*

*Policy AM15 states that the impact of the current parking arrangements on highway safety is also a relevant consideration. During performances, vehicles park along both sides of Granville Road and University Road and near the Regent Road and University Road junctions, which causes congestion, occasionally blocks the entrances to the car parks and the Hall, obstructs the traffic lights, and makes it difficult for visiting coaches to manoeuvre. This problem is exacerbated when there is additional activity on Victoria Park such as the Caribbean Carnival, Fairs and Circuses. Parking on the street becomes nearly impossible for some considerable radius. There is considerable congestion on Granville Road at the end of a performance, because all three car parks exit on to Granville Road.*

*There is a further question of whether the extra parking provision would lead to increased car use by patrons of the Hall. At present most of those arriving by car are able to find a parking space, albeit a not very satisfactory one. Bearing in mind the high proportion of customers arriving by car, it is unlikely that an increase in parking capacity will lead to increased car use.*

*The issue of parking on the Coach Drive is outside the scope of this planning application.*

*I consider that the evidence suggests that the current parking situation is both having an adverse effect on the commercial activities of De Montfort Hall and on traffic safety in the area. The proposed car park, because of its limited size, would not solve all of the problems referred to above but it would ease the situation.*

#### Other issues

*Concerning other criteria, traffic safety is a major consideration. The main access and exit will be from University Road, which is a classified road, and extra accesses*

*from classified roads are discouraged. However, this is an existing access which is currently unused. The access has an existing pavement crossover and the word 'entrance' is marked out on the roadway.*

*Vehicles will be turning both right and left out of the car park. However, the majority of the use of the car park will take place in off-peak times, when University Road is relatively quiet. Currently there are double yellow lines on both sides of University Road south of the site, and single yellow lines or none to the north. Sight lines would be greatly improved by double yellow lines on both sides of the exit.*

*Apart from safety, the possibility of congestion on University Road caused by the additional vehicle manoeuvres has to be considered. However, the majority of use is likely to take place at off-peak hours when University Road is relatively quiet. Also, when used by the University for special events, vehicles are likely to leave the car park at different times throughout the day and evening. I therefore consider that this is unlikely to be a significant problem.*

*The car park will be lit and covered by CCTV cameras and is close to the Hall. Stewards will be present. Security arrangements for pedestrians and vehicles therefore will be satisfactory. Further details regarding access arrangements are required, and I would recommend that if permission is granted, a condition is attached to secure these before the car park is brought into use.*

*Concerning the impact on visual amenity, the existing mature shrubbery on two sides and a hedge on the other two sides would be retained. The site, which is at the bottom of a slope, would only be visible from the top of the De Montfort Hall gardens. The four lighting columns will also be visible but because of the proximity of University Road the columns are unlikely to have much visual impact, provided they are of a satisfactory design. Any observations about the possible effect of the proposal on the surrounding vegetation will be reported to Committee*

*I consider that the proposal conforms to policies laid down in the local plan, and that there will not be any significant reduction in highway or pedestrian safety. Parking on the coach drive is a separate issue which cannot be controlled by planning means. The proposal will bring into use an unused area of land which is in itself a source of problems. I recommend APPROVAL subject to the outcome of discussions about access and landscaping, and subject to the following conditions:*

#### CONDITIONS

1. (0101) START WITHIN FIVE YEARS
2. Detailed plans and particulars of the means of access to the development shall be submitted to and approved by the City Council as local planning authority before the development is begun and shall have regard to the provision of necessary footway crossings.  
(To secure the satisfactory development of the site.)
3. (0110) DETAILS - CYCLE PARKING - OUTLINE
4. (0201) SIGHT LINES TO ACCESS (%) (T15)

5. (0202) STREETWORKS TO BE SATISFACTORY (%) (T15)
6. (0203) PEDESTRIAN CROSSING POINTS (%) (T15 AND T27)
7. Before the development is begun details of the design and materials for the lighting columns lighting columns shall be agreed in writing between the applicant and the City Council as local planning authority.  
(In the interests of visual amenity, and in accordance with policy EN3 of the City of Leicester Local Plan.)
8. The car park shall only be used as parking for customers of De Montfort Hall except as previously agreed in writing with Leicester City Council as local Planning Authority, and shall be kept locked at all other times. (In the interests of Highway safety and in accordance with policies T27 of the Adopted Local Plan and AM15 of the Replacement Local Plan (Second Deposit).

<b>PLANNING INSPECTORATE APPEAL DECISIONS</b>	
<b>20038021A</b>	<b>38 LINCOLN STREET</b>
24/04/2003	AREA: C                      WARD: <b>Castle</b>
ENF	UPVC WINDOWS AND DOORS
SS	THE OCCUPIER

### **Location and Site Description**

This report relates to a terrace house located on the northern side of Lincoln Street within a Primarily Residential Area as defined within the City of Leicester Local Plan. The property is also within the South Highfields Conservation Area and is covered by an Article 4 Direction.

### **The Proposal**

A planning application (20021926) for the retention of the UPVC windows and doors to the front was refused in January 2003. An enforcement notice was issued for the following reason:

*“The premises are subject to an article 4 Direction. The front UPVC windows and door, by reason of their proportions, appearance and materials, do not preserve or enhance the character and appearance of the property or of the South Highfields Conservation Area. Hence they are contrary to Policies EN11 and EN16 of the City of Leicester Local Plan.”*

### **The Appeal Decision**

The appeal against the enforcement notice served on 20 March 2003 by the Leicester City council for the unauthorised installation of UPVC windows and door to the front of the premises addressed as 38 Lincoln Street was dismissed and the enforcement notice was upheld.



## Commentary

The Inspector considered that the significant differences in terms of design and use of materials between the UPVC windows and door at 38 Lincoln Street and the timber windows and doors generally found on Lincoln Street are detrimental to the street scene. As a result the unauthorised windows and door do not preserve or enhance the character or appearance of the South Highfields Conservation Area. The development therefore was found in conflict with the relevant policies of the adopted local plan and the Council's SPG on the South Highfields Conservation Area. The decision supports the established City Council policies in the local plan (EN11, EN16) aimed at preserving and enhancing the conservation areas (and SPG adopted in March 2003).

<b>PLANNING INSPECTORATE APPEAL DECISIONS</b>	
<b>20038028A</b>	<b>39/43 NEWARKE STREET, OXFORD HOUSE (LEICESTER) LTD</b>
01/07/2003	AREA: C                                      WARD: <b>Castle</b>
PLA	CHANGE OF USE OF FIRST AND SECOND FLOORS FROM OFFICE TO TWO FLATS
SS	OXFORD HOUSE (LEICESTER) LTD

## Location and Site Description

This report relates to a three storey building on the north side of Newarke Street at the corner with Southgates and Oxford Street. The site is situated within an area defined as a primarily office area in the adopted local plan.

## The Proposal

An application (20030457) for change the use of the first and second floor from offices to two 3 bedroom self-contained flats was refused in May 2003 for the following reason:

*The development is unlikely to provide a satisfactory living environment for future occupiers of the flats by reason of noise and disturbance from traffic and the adjoining public house, thereby conflicting with Policies H13 and H14 of the City of Leicester Local Plan, Policy H05 of the Draft 2nd Deposit Replacement Local Plan and the guidance contained in PPG24.*

## The Appeal Decision

An appeal against the refusal was allowed and planning permission was granted subject to conditions relating to commencement of the development within 5 years; the provision of acoustic glazing and mechanical ventilation to be agreed with the City Council; and the provision of bin storage and cycle storage in accordance with details agreed with the City Council.

## Commentary

The inspector considered that the effect of noise and disturbance on the living conditions of the future occupiers of the proposed development could be mitigated to an acceptable degree by the imposition of appropriate conditions to bring the development in conformity with the objectives of local plan policies H13 and H14 of the second deposit replacement Local Plan policy H05 and national planning guidance.

<b>PLANNING INSPECTORATE APPEAL DECISIONS</b>	
<b>20038029A</b>	<b>30 WOODBINE AVENUE</b>
10/01/2003	AREA: E                      WARD: <b>Stoneygate</b>
ENF	GROUND FLOOR UPVC BAY WINDOW TO FRONT
SS	MS SARAH PERRY

### **Location and Site Description**

The site is located on the northern side of Woodbine Avenue. This is a Primarily Residential Area as defined within the City of Leicester Local Plan. The property is also within the South Highfields Conservation Area and is covered by the South Highfields Article 4 Direction.

### **The Proposal**

*An application (20021338) to retain the UPVC bay window installed on the front of the house was refused in October 2002 for the following reason:*

The proposal to retain the replacement bay window would be contrary to Policies EN16 and EN11 of the City of Leicester Local Plan in that the front window, by reason of its proportions, appearance and materials does not preserve or enhance the character of the South Highfields Conservation Area and the building covered by Article 4 Direction.

*An enforcement notice was also served requiring the re-instatement of a timber window.*

### **The Appeal Decision**

Appeals against the refusal of planning permission and the enforcement notice were dismissed. The enforcement notice was upheld.

### **Commentary**

The Inspector noted that the UPVC windows were chosen to match the original windows as closely as possible. Nevertheless, he concluded that the design of the windows and the materials used were noticeably different from the other, timber framed windows, in the immediate vicinity and in consequence detract from the character and appearance of the building and the character and appearance of the Conservation Area. The decision supports the City Council's decision to refuse the application and to take enforcement action.

<b>PLANNING INSPECTORATE APPEAL DECISIONS</b>	
<b>20038030A</b>	<b>1A STAMFORD STREET</b>
10/07/2003	AREA: C                      WARD: <b>Castle</b>
PLA	APPEAL AGAINST CONDITION 7 ATTACHED TO PLANNING PERMISSION 20021832
SS	MR M BACKUS

### **Location and Site Description**

This report relates to a 3 storey building with a basement on the southern side of Stamford Street near to its junction with Belvoir Street. It is on the edge of but outside the Central Shopping Core, and in the Albion Hill Potential Development Area.

Opposite on Stamford Street is a car park, and a former industrial building to the corner with Belvoir Street which now has residential use on the upper floors and a bar/restaurant on the ground floor.

### **The Proposal**

An application (20021832) was granted consent for change of use of basement and ground floor from offices (Class B1) to Café/bar (Class A3) in January 2003. The decision was subject to a number of conditions including one restricting hours of use to 0930 and 2300 daily.

### **The Appeal Decision**

The appeal was allowed and the condition was altered to allow opening hours until midnight daily.

### **Commentary**

The City Council was concerned about the potential noise and disturbance arising from opening hours up to midnight, this would have prejudiced the future redevelopment of the area for residential purposes. The site is outside the shopping centre and the use after 2300 hours was considered contrary to policy S12 of the local plan (adopted).

The Inspector considered that the use of the appeal premises up to midnight would unquestionably bring additional night-time activity into this part of Stamford Street. However, due to the position of the property so close to Belvoir Street, in the shopping centre, he did not consider the level of the impact would be enough to justify controlling opening hours prior to midnight.

**PLANNING INSPECTORATE APPEAL DECISIONS**

<b>20038041A</b>	<b>AYLESTONE ROAD, MECCA BINGO HALL</b>	
02/09/2003	AREA: C	WARD: <b>Castle</b>
ADV	TWO 48 SHEET EXTERNALLY ILLUMINATED ADVERTISEMENT HOARDINGS	
SS	JC DECAUX UK LIMITED	

**Location and Site Description**

The site to which this appeal decision related, is situated on the corner of Aylestone Road and Almond Road and is defined a Potential Development Area within the City of Leicester Local Plan (adopted). The site was previously used as a cattle market and now this part is occupied by a Bingo Hall. The area is allocated for Community Leisure and Education uses within the second deposit Replacement City of Leicester Local Plan.

**The Proposal**

An application (20030988) to display two free standing 48-sheet advertisement hoardings back to back with external illumination was submitted in June 2003. Each of the proposed externally illuminated advertisement measured 3.2m by 6.4m and the top of the advertisements was to be approximately 6m from ground level. The advertisements were to be sited on area adjacent to the splayed corner of the single storey Mecca Bingo building. The area is well landscaped with bushes, shrubs and newly planted trees. The application was refused for the following reason:

*“The advertisement hoardings by reason of their size and prominent siting would be overdominant and visually intrusive features which would detract from the visual amenities of the street scene, thereby conflicting with policy EN33 of the City of Leicester Local Plan and Policy BE17 of the 2nd deposit City of Leicester Local Plan.”*

**The Appeal Decision**

The appeal was dismissed.

**Commentary**

The Inspector considered that the advertisements positioned forward of the building would appear as awkward and incongruous features where they would be seen in association with and would intrude into the currently open aspects of the well-landscaped boundary. The proposed external illumination was considered unduly assertive and intrusive after dark. The local plan policies were considered as a material planning consideration, but the appeal was dismissed due to detrimental effect of the advertisements on the amenity of the surrounding area. The appeal decision supports the City Council’s refusal of advertisement consent.