

# COMMITTEE REPORT

<b>20221334</b>	<b>22A Staveley Road</b>	
Proposal:	Demolition of builders yard building; construction of two-storey building to provide 8 flats (1 x 1 bed & 7 x 2 bed) (Class C3) (amended plans)	
Applicant:	Nico Properties Ltd	
App type:	Operational development - full application	
Status:	Minor development	
Expiry Date:	17 October 2022	
WJJ	TEAM: PM	WARD: Stoneygate



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## Summary

- Brought to the Committee as the recommendation is for approval and objections have been received from more than five different City addresses.
- Eighty-six objections have been received. They raise concerns including: the redevelopment of the site for housing and the number and size of units proposed, residential amenity for existing and proposed residents, inadequate parking, servicing, emergency evacuation and access provision, impact on

highway and resulting pollution, impact on character and appearance of the area, loss of trees and habitat for wildlife, increase in the demand for services and increase in flood risk.

- The proposal is very similar to that of the last application which was the subject of an Appeal Against Non-Determination. The appeal was dismissed. The Inspector ruled that the only reasons for dismissal were that the Sequential Test for Flooding had not been addressed and that it had not been demonstrated that flood risks could be suitably managed for the lifetime of the development.
- In the light of the appeal decision, the most significant main issues are the Sequential Test for Flooding and flood risks. Other main issues are: appearance, residential amenity of future residents and neighbours, waste storage and collection, highway and parking matters.
- The application is recommended for approval subject to conditions.

## The Site

The site is within a residential area characterised by a dominance of 1920's and 1930's semi-detached houses. While most properties in the area front a street, this site is surrounded by houses on all sides. It is within a triangle of land between Staveley Road, Hollington Road and Kedleston Road. Vehicular and pedestrian access is by a driveway onto Staveley Road. To the west of the site is a car park for Evington Community Centre (formerly the Coach and Horses Public House) with access onto Kedleston Road.

Evington Community Centre is on the Local Heritage Asset Register (LHAR).

With regards to potential flooding from Main River (MR) sources, the site straddles MR Flood Zones 1, 2, 3a & 3b. The Evington Brook runs between Staveley Road and Evington Valley Road and is designated a Main River here. Most of the site is within MR Flood Zone 1. MR Flood Zone 1 has a very low estimated risk of flooding, with an estimated risk of less than 1 in 1000 years. Going east along the site access drive, towards Staveley Road, there is a transition from MR Flood Zone 1 to MR Flood Zone 3b. MR Flood Zone 3b has a very high estimated risk of flooding, with an estimated risk of greater than 1 in 30 years.

With regards to potential flooding from Surface Water (SW) sources, much of the site is in SW Flood Zone 1. It is estimated to have a very low risk of flooding, with an estimated risk of less than 1 in 1000 years. Small parts of the site, down the eastern boundary and along the vehicle driveway that leads to Staveley Road, are in SW Flood Zone 2 with an estimated risk of between 1 in 100 and 1 in 1000 years.

The site is also within a Critical Drainage Area (CDA). This means that although flooding from pluvial sources is reasonably unlikely to take place here, a rapid rate of surface water runoff from the CDA may contribute to flooding in neighbouring Hotspots.

The site is at a very low estimated risk of flooding from Ordinary Watercourses (OW). It is within OW Flood Zone 1 with an estimated risk of less than 1 in 1000 years.

There is a known source of pollution at Kainth Autos on Dore Road.

## Background

Maps from the 1880's indicate this area consisted mostly of fields that were close to the outskirts of the city. In the early 1900s there were allotments here and streets and buildings were appearing nearby on all sides. The four roads around the application site (Chesterfield Road, Hollington Road, Kedleston Road & Staveley Road) seem to have been laid out either shortly before or after the second world war. The historic maps show the houses on those roads and the Evington Community Centre (then the Coach & Horses Public House) had been built by the 1950's. Maps from the 1950's label the site as 'Builder's Yard'.

On this site there have been a number of planning applications for small scale development from the 1960's onwards. They refer to the existing use as 'Builder's Yard'. There is a single storey building on the site.

In 2017 an application in outline with all matters reserved, save landscaping, was made for a block of twenty flats, each with two bedrooms (20170775). The indicative plans showed a four-storey building. This was withdrawn.

In 2018 an application in full was made for a three-storey block of fifteen flats, each with two bedrooms (20180858). This was withdrawn.

Planning application 20190368 for the construction of a three-storey block of fifteen flats (4 x 1 bed and 11 x 2 bed) was refused for the following reasons:

- 1. By reason of the proximity of the windows and balconies and the height, massing and position of the proposed building in relation to neighbouring dwellings on all sides and in particular 8, 10 and 12 Hollington Road the scheme will significantly and unacceptably reduce their light, outlook and privacy they enjoy and have an overbearing impact upon them. As such the scheme is contrary to policy PS10 in the City of Leicester Local Plan and NPPF paragraphs 124 & 130.*
- 2. By reason of the very poor outlook, light and useable garden/outdoor amenity space of many of the proposed flats the proposed scheme will result in unacceptable living conditions for future residents. As such the scheme is contrary to policy PS10 in the City of Leicester Local Plan, policy CS03 in the Core Strategy and NPPF paragraphs 124 & 130.*
- 3. By reason of the unacceptable width and entrance/exit radii of the driveway, the inadequacy of parking provision and the scale and use of the development proposed the scheme is likely to be significantly harmful to highway safety by reason of vehicles reversing onto the highway and the access being blocked. As such the scheme is contrary to policy AM01 of the city of Leicester Local Plan, CS03 in the Core Strategy and paragraphs 108, 109 and 110 in the NPPF.*
- 4. The applicant has failed to demonstrate satisfactory provision for the collection of refuse on bin collection days. No storage area is proposed close (within 10m for 1100 litre bins and 20m for two wheeled bins) to the highway edge and there is no space for one within the application site without reducing the width of the already narrow driveway. This arrangement is likely to lead to bins blocking the end of the driveway or the public pavement on bin collection days. This will be harmful to the effective working of the highway and will be harmful to highway safety. As such it is contrary to the Leicester City Council Waste Management guidance notes for residential properties, policies CS03, CS14 and CS15 in the Core Strategy and NPPF paragraphs 110, 124 & 130.*

5. *No information has been provided to demonstrate the scheme passes the Sequential Test and the Exception Test for flooding. As such there may be other sites that may be sequentially preferable and there is no reason to believe an exception for this scheme should be made. As such the scheme unjustifiably increases the number of dwellings at risk from flooding and is contrary to policy CS02 of the Core Strategy and paragraphs 155, 158, 159, 160 and 161 in the NPPF.*

Planning application 20200259, for a block of nine independent living units (1 x 1 bed and 8 x 2 bed) (Class C2), was refused for the following reasons:

1. *By reason of the proximity of the windows and balconies and the height, massing and position of the proposed building in relation to neighbouring dwellings on all sides, the scheme will significantly and unacceptably reduce outlook and privacy enjoyed by nearby occupiers and have an overbearing impact upon them. As such the scheme is contrary to policy PS10 in the City of Leicester Local Plan and NPPF paragraphs 124 & 130.*
2. *By reason of the very poor outlook, light and useable garden/outdoor amenity space of many of the proposed flats the proposed scheme will result in unacceptable living conditions for future residents. As such the scheme is contrary to policy PS10 in the City of Leicester Local Plan, policy CS03 in the Core Strategy and NPPF paragraphs 124 & 130.*
3. *By reason of the unacceptable width and entrance/exit radii of the driveway, the inadequacy of parking provision and the scale and use of the development proposed the scheme is likely to be significantly harmful to highway safety by reason of vehicles reversing onto the highway and the access being blocked. As such the scheme is contrary to policies AM01, AM02 and AM12 of the city of Leicester Local Plan, policies CS03 and CS15 in the Core Strategy and paragraphs 108, 109 and 110 in the NPPF.*
4. *The applicant has failed to demonstrate satisfactory provision for the collection of refuse on bin collection days. No storage area is proposed close (within 10m for 1100 litre bins and 20m for two wheeled bins) to the highway edge and there is no space for one within the application site without reducing the width of the already narrow driveway. This arrangement is likely to lead to bins blocking the end of the driveway or the public pavement on bin collection days. This will be harmful to the effective working of the highway and will be harmful to highway safety. As such it is contrary to the Leicester City Council Waste Management guidance notes for residential properties, policies CS03, CS14 and CS15 in the Core Strategy and NPPF paragraphs 110, 124 & 130.*

The applicant appealed against the Council's decision to refuse application 20200259 (20208021A). The appellant argued the scheme had been mis-classified by the Council as independent living units within Class C2 when it was for market housing within Class C3. The inspector determined the appeal on the basis that the use was market housing within Class C3. The appeal was dismissed on the basis that the flats would provide poor living conditions for future residents and would not provide an acceptable amount of vehicle parking.

Planning application 20210135 was for a block of eight independent living units (1 x 1 bed and 7 x 2 bed) (Class C3). The application was made without an attempt to address the Sequential Test for Flooding. The applicant appealed against the failure of the Council to determine the application within the statutory period; known as an 'Appeal against Non-Determination' (20218051A). The appeal was dismissed on the

grounds that the Sequential Test for Flooding had not been addressed, and that it had not been demonstrated that flood risks could be suitably managed for the lifetime of the development.

## The Proposal

The proposal is to demolish the existing single storey building on the site and to build a single and two-storey block of eight flats. Most of the proposed building has two storeys, with a small single storey part on the southern side. Seven of the flats have two bedrooms, and one flat has one bedroom. The block is sited close to the western boundary of the site. Car parking spaces are proposed to the east and north of the block. A communal garden is proposed in the northern corner of the site. Small ground floor gardens are proposed to the east of two of the ground-floor flats (Flats 1 & 4). East facing first floor balconies are proposed for two of the flats (Flats 6 & 7). Fifteen car parking spaces are proposed within the site. Cycle storage is proposed between the north wall of the block and the communal garden in the northern corner of the site. A green roof is proposed.

All the flats are accessed by entrances on the east facing wall of the block. Flats 1 & 4 have their own entrances, Flats 2, 5 & 6 and flats 3, 7 & 8 are accessed through separate communal entrances respectively. The ground floor flats (Flats 1, 2, 3 & 4) also all have patio style windows to their living rooms. The four flats on the first floor (Flats 5, 6, 7 & 8) are all accessed solely by stairs; no lifts are proposed.

The building would have a varying depth of around 6 to 11 metres, and it would have a length of around 45 metres. The single storey part of the building on the southern side would have a flat roof with a height of 3.3 metres, and the two storey parts of the building would have a height of 5.7 and 6.25 metres.

The plans indicate the applicant owns 24 Staveley Road (blue edged on location plan). The driveway will be widened where it meets Staveley Road by using the south-eastern corner of the front garden of 24 Staveley Road. Bin storage is proposed by the side of the driveway behind the rear garden of 24 Staveley Road.

The proposed block of flats is in a similar location, close to the western boundary, to previous applications: 20170775, 20180858, 20190368, 20200259 & 20210135.

The differences to the previous scheme (20210135) which was dismissed following an Appeal against Non-Determination (20218051A) are as follows:

- The paperwork submitted with the application includes a report that seeks to address the Sequential Test and Exception Test for Flooding.
- The Daylight Modelling Exercise report that was submitted with the appeal against the non-determination of the last application (20218051A) has been submitted.

## Policy Considerations

### National Planning Policy Framework (NPPF) July 2021

Paragraph 2 states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

Paragraph 11 contains a presumption in favour of sustainable development. For decision-taking this means:

*'c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

The city does not currently have a five-year deliverable land supply for housing.

Paragraph 8 contains a definition of sustainable development consisting of three objectives *'which are interdependent and need to be pursued in mutually supportive ways'*. In shortened form, these are as follows:

*a) an economic objective*

*b) a social objective*

*c) an environmental objective*

*Transport aspects.* The following paragraphs are particularly relevant to the transport aspects of this scheme.

Paragraph 110 states that *'In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*

*a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*

*b) safe and suitable access to the site can be achieved for all users; and*

*c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code*

*d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.'*

Paragraph 111 states that *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*

Paragraph 112 states that *'Within this context, applications for development should:*

*a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*

*b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*

- c) *create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- d) *allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- e) *be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*

Density aspects. The following paragraphs are particularly relevant to matters related to density.

Paragraph 119 states that *‘Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or ‘brownfield’ land.’*

Paragraph 124 states that *‘Planning policies and decisions should support development that makes efficient use of land, taking into account:*

- a) *the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
- b) *local market conditions and viability;*
- c) *the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
- d) *the desirability of maintaining an area’s prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
- e) *the importance of securing well-designed, attractive and healthy places.’*

Paragraph 125 states that *‘... Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. ...*

- b) *the use of minimum density standards should also be considered for other parts of the plan area (Case Officer note – outside ‘city and town centres and other locations that are well served by public transport’). It may be appropriate to set out a range of densities that reflect the accessibility and potential of different areas, rather than one broad density range; and*
- c) *local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).’*

Design aspects. The following paragraphs are particularly relevant to design matters.

Paragraph 126 states that *‘The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process*

*should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.'*

Paragraph 130 states that *'Planning policies and decisions should ensure that developments:*

*a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*

*b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

*c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

*d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*

*e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*

*f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'*

Paragraph 135 states that *'Local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).'*

*Sustainable Drainage aspects.* The following paragraph is particularly relevant to sustainable drainage matters.

Paragraph 168 states that *'Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*

*a) take account of advice from the lead local flood authority;*

*b) have appropriate proposed minimum operational standards;*

*c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*

*d) where possible, provide multifunctional benefits.'*

*Habitat and biodiversity aspects.* The following paragraphs are particularly relevant to habitats and biodiversity matters.

Paragraph 174 states that *'Planning policies and decisions should contribute to and enhance the natural and local environment by:*



*d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*

*e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;*

*f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.'*

Paragraph 180 states that *'When determining planning applications, local planning authorities should apply the following principles:*

*c) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.'*

#### Other planning and material considerations

Development plan policies relevant to this application are listed at the end of this report.

Supplementary Planning Document – Residential Amenity

City of Leicester Local Plan (2006). Saved policies. Appendix 1: Parking Standards

Leicester Street Design Guide (First Edition)

Leicester City Council Waste Management guidance notes for residential properties

Technical housing standards – Nationally Described Space Standards – March 2015 (NDSS).

National Design Guide (Ministry of Housing, Communities & Local Government)

Leicester City Corporate Guidance – Achieving Well Designed Homes 2019

Building Research Establishment (BRE) - Site layout planning for daylight and sunlight: a guide to good practice (BR 209), Second Edition. *(Case Officer note – In June 2022 a third edition of the BRE guide was released; the same month that this planning application was made. Given there have been a number of similar schemes for this site and two appeals, and that the last appeal decision did not raise concerns regarding light, I consider evaluating this scheme against the second edition to be acceptable in this instance.)*

## Consultations

### Lead Local Flood Authority (LLFA)

Surface water will be managed using a brown roof, Type C permeable paving and attenuation tanks before discharging to surface water public sewer at 5l/s/ha using a proprietary flow control device. This is acceptable. Due to soil conditions there are limited opportunities for discharge through infiltration.

A linear drain is needed at the entrance to the driveway next to Staveley Road. This is to intercept and prevent surface water from travelling onto the highway. This can be secured by condition.

The building will be set at 150mm above the external levels which offers acceptable protection against water ingress.

In the event of a flood, access and egress from the site by residents is within acceptable limits and emergency vehicles will be able to access the site.

Water quality will be maintained onsite via filtration using proposed permeable paving as part of the treatment train for surface water flows.

All future residents of the scheme are encouraged to sign up for the Environment Agency's free Flood Warning service and the Met Office severe weather warnings email alert service.

#### Environment Agency

The proposed building is located within Main River Flood Zone 1, at low probability of flooding. The driveway lies within Flood Zones 2, 3a & 3b, at high probability of flooding from the Evington Brook. However, flood depths are likely to be relatively shallow and present a low hazard rating to people within more extreme events. For situations where dry access/egress is not available, they strongly advise that a flood emergency plan for residents is agreed in consultation with the Council. *(Case Officer Note – A flood emergency plan has been submitted with this application and is acceptable.)*

#### Severn Trent Water

No comments have been made.

#### Pollution (Land Contamination)

The Phase 1 report submitted with this application (Ref: 1511R V2 Nico - Leicester) is acceptable along with the recommendation for further investigation. Further investigation can be secured by condition.

#### Pollution (Noise)

This development is close to numerous dwellings that are in a relatively quiet location. In order to protect residents during construction, from noise and dust, a construction management plan and the hours of construction should be secured by condition.

#### Local Highway Authority

The access, turning, vehicle and cycle parking are acceptable. The access is wide enough and has acceptable visibility. A fire engine can be turned within the site. Fifteen vehicle parking spaces are proposed which accord with one space per bedspace. This is in accordance with the City of Leicester Local Plan (2006) Vehicle Parking Standards. The use of sustainable means of transport can be encouraged by the provision of travel packs to new residents of the scheme. This can be secured by condition.

#### Waste Management

This scheme, with eight flats and fifteen bedrooms, will require sufficient space for the storage of refuse bins and recycling bins with a capacity of 1128.75 litres for refuse and 645 litres for recycling (2X 1100 litre or 4x 360 litre refuse bins and 1X 1100 litre or 3x 240 litre recycling bins). The proposal shows a bin store which may not be large enough.

## Representations

Eighty-six objections. Grounds:

- Loss of light from the height and bulk of the proposed building for the rooms and gardens of neighbouring properties.
- Loss of privacy for the rooms and gardens of neighbouring properties from the windows and balconies of the proposed building.
- The loss of light and privacy may be a breach of Human Rights.
- The proposed building will have an overbearing impact on neighbouring properties.
- The rear of neighbouring properties will be viewable from the proposed flats and people will be able to access the rear gardens of neighbouring properties from the application site. This raises concerns regarding safety and security.
- In order to protect the amenity enjoyed by neighbours, extensions to houses are limited. These limitations should also apply to new blocks of flats.
- Exhaust fumes, noise and congestion from vehicles are currently a problem in the area. Traffic associated with the proposed flats and the use of electric charging points close to existing gardens may increase this problem. In the past, traffic movement for the business on the site was mostly during the day. With households living here, then there may be traffic movement throughout the day and night. They may also bring in new problems, such as vibration from plant and vehicles.
- Fumes and dust from the vehicles going to and from the site and parked close to the boundaries with neighbours, could potentially contaminate plants and home-grown vegetables growing, and harm the health of children playing, in neighbouring gardens.
- The loss of light during daytime, may affect the health of plants growing in neighbouring gardens, where shadow is cast.
- Light pollution at night may harm the amenity and health of neighbours. This may be through external lights and car headlights. This light pollution may also harm biodiversity and contribute to sky glow.
- The applicant may be planning to extend the block of flats upwards, once it is built. Such an extension would cause further harm to neighbours.
- The access road is narrow and bendy, so that a vehicle will not be able to see if the access road is clear before entering or exiting. As such, only one car will be able to go in or out at a time. There is not adequate space for pedestrians. Together they may cause congestion for Staveley Road and pedestrian safety problems along the access road and along the existing pavement that crosses the entrance.
- The entrance passage into the site is too narrow for safe waste collection and fire engine access.
- There is no footway down the access drive for pedestrians.
- The fifteen car parking spaces proposed is not adequate for eight flats with a total of fifteen bedrooms. Many households in the area have more than two cars.

- Parking on Staveley Road currently causes problems. People often park on double yellow lines, junction corners and zig zags at crossings. Residents and those visiting the area struggle to find on-street parking. Traffic associated with the proposed flats may increase this problem. This may cause access difficulties for emergency vehicles.
- If existing provision for on-street parking remains next to the entrance, then vehicles leaving the site will not have adequate visibility.
- No parking for the disabled is provided.
- The proposed bin store is close to some existing neighbouring properties. This may cause odour and waste overflow problems for those properties.
- The bin store is not close to Staveley Road and is on a private drive. Waste vehicles prefer not to use private drives. Will waste collection be acceptable? Will bins be left on Staveley Road for long periods?
- The small and triangular nature of the garden means it will not be able to cope with the number of residents and, without a second means of access, there may be problems carrying out an evacuation, should there be an emergency.
- The access road may be used for anti-social behaviour.
- The scheme includes a border of vegetation and a communal garden that cannot be seen from the street. This will encourage people to hang around here and maybe engage in anti-social behaviour.
- A lot of families live in the area. Will the flats be occupied by people who do not fit into such an area and engage in anti-social behaviour?
- As this is a private site, the Police will not be able to cope, unless professional 24 hour-a-day security is provided. Security cameras will not be sufficient. No statement regarding security has been provided with this application.
- The site has been used for employment purposes for many years and should now be used for a modern employment use, such as an office, and not housing.
- This site is appropriate for two or three houses. Eight flats will be overdevelopment.
- This site is appropriate for four to five dwellings.
- The site is suitable for semi-detached houses and not flats.
- According to the City of Leicester Local Plan 2006, policy H03, this land is suitable for four to five small terraced houses.
- The scheme is overcrowded; unpleasant for both future residents of the scheme and for neighbours.
- Although the scheme is only for eight flats, many flats in the city are occupied by more than one household; so there could be many more than eight households living here.
- The character of the area is of suburban two storey houses. The proposed block of flats does not fit in with this character. Flats are more suited to the city centre and main roads with lots of access.
- There are too many flats in the city.
- The proposed flats will have an unpleasant appearance and will be bulky.

- The flat roof does not accord with the character of the area, which is for pitched roofs.
- The proposed block of flats will have balconies (for flats 6 & 7). None of the houses around the site have balconies.
- The existing row of trees, just outside the site at the rear (beyond the western boundary), should be retained.
- The planning application form indicates that no trees will be affected by the scheme. This is untrue. The scheme will affect a row of trees that lies close to the rear/western boundary of the site and is within the Evington Community Centre site. (*Case Officer Note – this comment regarding the planning application form is correct, and the matter of the trees is addressed under the Consideration section of this report.*) These trees may be lost through damage to their roots. That may be harmful to the character and appearance of the area. Alternatively, if they remain, they will block light from reaching the proposed flats.
- Harm to wildlife that currently lives here.
- The proposed flats will have poor amenity with poor privacy, light, outdoor amenity space, and outlook; with high level narrow windows in the rear elevation that is close to the site boundary.
- The outdoor amenity space is small and poor; especially for households with children. Is it acceptable for children to walk around the parked cars from the flat entrances to the communal garden?
- Will the communal garden provide a safe play space for children? Should fencing and gates be provided in the manner that school grounds are fenced and gated?
- The proposed building is too close to the properties of Hollington Road.
- Part of the site and neighbouring sites are at high risk of flooding (part of the driveway is within Flood Zone 3b). This risk will be increased by the development. Residents of both the scheme and the area around it may suffer. Insurance premiums in the area may rise in relation to flood risk.
- The access road is currently at high risk of flooding (Flood Zone 3b). With climate change this may increase, so that much or all of the site becomes at significant risk of flooding.
- The scheme may lead to a fall in the price of existing houses in the area. (*Case Officer note – This is not a Planning consideration.*)
- With new hard surfaces the scheme may increase the rate of surface water runoff from the site. This may lead to flooding of other properties.
- The scheme may lead to increased problems with the provision of healthcare and other important services in the area.
- If approved, the scheme may fail to proceed due to action being taken under civil law, the invoking of covenants and a Judicial Review. (*Case Officer note – This is not a Planning consideration.*)
- Should the scheme go ahead, compensation should be paid for the damage caused. (*Case Officer note – This is not a Planning consideration.*)
- The agent has signed the Certificate of Ownership at the end of the planning application form to declare that the applicant owns the land. This may not be true.

- The scheme involves using land that is not within the ownership of the applicant. (*Case Officer Note – The agent has signed Certificate A; confirming they own the site. The agent has confirmed that the applicant owns the site.*)
- There is no path from the entrances of the flats to the communal garden. Residents may need to squeeze between the cars to get there. This is not ideal and especially poor if they have limited mobility.
- Concerns that the existing building on the site may have asbestos in it. Prior to demolition occurring, it should be subject to an asbestos survey and removal by appropriately qualified personal. (*Case Officer note – This is not a Planning consideration.*)
- No objection in principle. The Council must be satisfied that the scheme will not cause flooding problems and is in accordance with other planning policies.
- The Planning Committee should visit the site and consider the scheme in the light of all relevant policies.

## Consideration

### Principle of development

The site has been used for a builder's yard for many years. Located within a residential area with houses on all sides, a builder's yard is a non-conforming use that has the potential to cause significant disturbance, through noise and dust, to nearby residents. As such, in principle the opportunity to redevelop this site for residential use is welcomed and it would make a positive contribution to the City Council's housing need- as the council does not currently have a Five Year Land Supply the 'tilted balance' in favour of residential developments comes into consideration.

Policy CS06 of the Leicester Core Strategy sets out the housing policies for the city which includes to meet the needs of specific groups including elderly and vulnerable people. The policy seeks to meet the city's housing requirements through small housing infill and conversion schemes to support the development of sustainable communities and seeks to secure an appropriate mix of housing to meet the city's requirements.

The indicative map for policy CS08 locates this site within an area described as the Suburbs. Policy CS08 states *'The Suburbs are popular places to live for families due to a combination of their environment, house types and size and local facilities including schools. It is the Council's aim to ensure that these areas continue to thrive and so provide neighbourhoods that people aspire to live in and which are a genuine alternative to out-migration from the City.'*

With regard to the Suburbs, policy CS08 states that *'Small scale infill sites can play a key role in the provision of new housing. However, these should only be developed where damage can be avoided to the very qualities that make living in these neighbourhoods so desirable.'*

With an area of less than 0.19 hectares in size and surrounded by three streets with dwellings and a community centre, I consider the site is a *'small scale infill site'*. As will be detailed in the later sections of this report, I consider that the scheme proposed will contribute to *'neighbourhoods that people aspire to live in'*.

### Efficient use of land

Support for appropriately dense development is found in Paragraphs 117, 122 & 123 of the NPPF. Paragraph 123 states '*Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.*'

Saved policy H03 from the City of Leicester Local Plan (2006) indicates the density of new dwellings should be:

- a) *50 dwellings per hectare (dph) on sites of 0.3hec + within Central Commercial Zone.* The site is not within the Central Commercial Zone.
- b) *40dph on sites of 0.3hec + within walking distance of main public transport corridors or defined Town and District Centres.* The site is about 270m walking distance along Staveley Road from the Evington Road. Buses run along a number of other roads in the area such as East Park Road.
- c) *30dph on all other sites*

The site is under 0.19 hectares in size. Policy H03 indicates it should therefore have a minimum density of 30dph. With eight flats the density of the proposed scheme is about 43dph. Therefore, in terms of density alone, the scheme is acceptable.

Part d) of paragraph 122 states - *Planning policies and decisions should support development that makes efficient use of land.* However, of particular relevance to this scheme are parts d) and e). Planning decisions should take into account '*d) the desirability of maintaining an area's prevailing character and setting (including residential gardens) and e) the importance of securing well-designed, attractive and healthy places.*'

Paragraph 123 states that '*Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.*' Of particular relevance to this scheme is part c) which states '*In these circumstances: c) local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).*'

The '*prevailing character*' (NPPF paragraph 122) of the area is semi-detached houses with substantial front and rear gardens and good outlook from windows. This can be seen on nearly all the plots on the streets neighbouring the site and for some streets further afield. The proposal, a part single part two storey block of flats with a small amount of garden and limited outlook for windows to the rear (west facing), has a different character to most of the houses nearby. However, while clearly different, I do not consider the proposed flats to be so different as to be discordant. This matter is discussed in more depth in the Design section of this report.

## Design

The site is within a residential area characterised by a dominance of 1920's and 1930's semi-detached houses. Although these dominate the character of the immediate area, there are exceptions such as the Evington Community Centre (former Coach and

Horses Public House) and, within a short distance, are Victorian/Edwardian terraced houses, shops, factories and warehouses. While a two-storey block of flats may be different from the two storey 1920's and 1930's semi-detached houses, that does not mean it is harmful. I consider that the appearance of the proposed flats is acceptable and there is nothing about their appearance that is clearly incongruous. It will also be lower in height than the houses due to the lack of pitched roof and will be on a site that does not receive many views from the three streets around it, Hollington Road, Kedleston Road & Staveley Road. The reclusive nature of the scheme means that the impact will be small.

Thought must be given to the impact on the setting of the Evington Community Centre (former Coach & Horses Public House) which is on the Local Heritage Asset Register. The Evington Community Centre is about 21m from the application site. When looking at the Evington Community Centre from many views on Hollington Road and Kedleston Road, the proposed flats will be behind the Evington Community Centre and not within view. At a distance of about 21m and often not within view, I consider the proposed block of flats will maintain the setting of the Evington Community Centre.

The plans indicate the site will be surrounded by a 2m high fence. This accords with what is normally Permitted Development and I consider this acceptable. However, where the boundary treatment is between the building line on Staveley Road and the highway edge, I consider it should be lower to maintain the open character of the fronts of properties in the area. This can be secured through a clause on boundary treatments in a landscaping related condition.

With the exception of the RAL colour for the aluminium windows and doors and fascias, details of the materials to be used have been submitted. The walls will be finished in two brick types, Ibstock Leicester Autumn Multi brick and Ibstock Leicester Weathered brick. The balconies will have a frameless balustrade. I consider these materials to be acceptable and the RAL colour for the windows, doors and fascias can be secured by condition.

There is a row of conifer trees within the site of the car park that serves the Evington Community Centre. These are close to the boundary and building works may harm their roots. I consider that these trees do not make a significant contribution to the character and appearance of the area. Although their possible loss as a result of this development is regrettable, I do not consider that this would justify recommending refusal of the application.

To summarise, I consider the scheme will have an acceptable impact on the character and appearance of the area.

#### Living conditions (*The proposal*)

The rear wall (west facing) of the block of flats is very close to the boundary. As such, outlook and light to rooms from windows in that wall, is very limited. With this in mind, the scheme has been designed to make use of the outlook and light that windows in the front wall (east facing) can provide. Bathrooms and kitchens have been placed at the rear and living rooms and bedrooms at the front.

Concern regarding the restriction of light by the overhang of balconies over ground floor flat windows by previous schemes has been addressed; the balconies no longer overhang.



The applicant has submitted a report that examines the scheme in the light of the *'Building Research Establishment (BRE) - Site layout planning for daylight and sunlight: a guide to good practice (BR 209)'*. This started to be sought by the Council after permitted development rights were extended for the creation of new flats in 2020. In June 2022 a third edition of the BRE guide was released; the same month that this planning application was made. Given there have been a number of similar schemes for this site and two appeals, and that the last appeal decision did not raise concerns regarding light, I consider evaluating this scheme against the second edition to be acceptable.

Paragraph 2.1.8 of the BRE guide states that *'In housing BS8206-2 also gives minimum values of ADF (Average Daylight Factor) of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms.'* The Daylight Modelling Study submitted with this application indicates the living area will have an ADF of 1.5% and so complies. As such, I consider that the flats will receive acceptable levels of light.

The Council does not have adopted space standards, but all flats are of a reasonable size. The one-bedroomed flat is 60sqm and the two-bedroomed flats between 72–76.5sqm. This exceeds the Nationally Described Space Standards.

Policy CS06 in the Core Strategy indicates that in order to ensure dwellings can meet the changing needs of residents over the course of their lives, all new dwellings should comply with category M4(2) of the Building Regulations. The design does not include a lift to the upper floors. This means the four flats on the first floor do not comply. However, given the small nature of the scheme, the floor space that a lift and associated corridor would take and the cost of a lift, I consider that it would be difficult to insist on one here. The ground floor flats will be required to comply with category M4(2) of the Building Regulations and I recommend this is secured by condition.

The ground floor east facing flats face the eastern boundary at a distance of between around 7-20m. In front of those windows will be parked cars. While not ideal, I consider this outlook is acceptable given the thin and triangular nature of the site.

The communal garden is surveyed at about 14m distance by a floor to ceiling height ground floor window to Flat 4 and a thin high level first floor window to flat 8. While this is not ideal, I consider locating the communal garden to the side of the flats on the northern side of the site is the best option given the limitations of the site. The SPD for Residential Amenity indicates that where flats have a communal garden it should equate to a minimum 1.5sqm for flats with one bedroom and 2sqm for flats with two. For this scheme this comes to 15.5sqm. The communal garden will be about 240sqm in size. While it is an irregular shape, I consider that this will provide a good level of amenity for residents. Flats 1 and 4 have small gardens in front of their living rooms. They are also acceptable.

Overall, the irregular shape of the site means it is difficult to provide dwellings that score highly on all elements of amenity. On balance, I consider that the scheme will provide residents of the flats with an acceptable level of outlook, light and amenity space. The proposed development is not dissimilar to the previous scheme where the Inspector raised no significant concerns on the matters above.

With suburban housing on most of the streets around the site, the area is relatively quiet. A potential source of noise is the Evington Community Centre and its car park. The flats should be appropriately protected by the installation of noise insulation, as required by the Building Regulations.

Some representations raise concerns about security and suggest the access have a gate. The agent considers that a gate would cause access problems and says the scheme is not designed to be an exclusive development. I consider that the block of flats will provide adequate surveillance of the driveway and parking area and the nature of the use indicates that a high level of site security is not required. The site is also within a relatively quiet suburban area and does not abut a main road. The lack of a gate would not justify a recommendation of refusal.

#### Residential amenity (*neighbouring properties*)

The SPD for Residential Amenity indicates the separation distances between dwellings should be as follows:

- 21m where windows face each other
- 18m where windows face each other obliquely
- 15m where a window faces a blank wall

The original rear gardens of the semi-detached houses around the site vary from about 15m-32m in depth. In some cases the gardens have been reduced in length by rear extensions to the houses.

With a flat roof and a height of 6.25m, the proposed building will be a lower than the existing semi-detached houses on all sides, which have pitched roofs.

To the rear (west facing) and side elevations (north and south facing) the proposed block of flats has thin high-level windows on the first floor. I consider that these thin high-level windows minimise the sense of being overlooked for existing neighbouring dwellings, while providing some light to the proposed flats. The distance between these thin high-level windows will be closest on the southern side, where they will be about 20m from the original rear wall of 10 Hollington Road. For the windows at the rear, facing west, they will be about 32m from the from the original rear walls of houses on Kedleston Road. Given their thin and high-level character, I consider their impact on the privacy of existing dwellings around the site to be acceptable.

To the front (west facing) the proposed block of flats has floor to ceiling windows and balconies on the first floor. The closest of the windows will be around 28m to the original rear wall of 36 Staveley Road. The nearest balcony will be around 34m to the original rear wall of 32 Staveley Road. These distances exceed the guidance in the SPD for Residential Amenity and I consider the privacy of houses on Staveley Road will be maintained at an acceptable level.

Concern has been raised by objectors that the bin store is close to houses and therefore odour from the bin store may harm their amenity. There are numerous bin stores in the city that are close to neighbouring gardens dwellings. While bins can be a source of odour, this is something that can be addressed through appropriate management. I consider that it would be difficult to sustain a refusal for this reason.

The site is close to many dwellings which are in a relatively quiet location. Construction works therefore have the potential to cause unacceptable disturbance to neighbouring residents. I therefore recommend that working practices and hours be addressed and secured by conditions.

External lighting for the proposed scheme has the potential to harm the amenity of residents of the scheme and neighbours. I recommend it be addressed by a condition.

#### Highway and parking matters

The access, turning, vehicle and cycle parking are acceptable. The access is wide enough and has acceptable visibility. The dropped kerb needs to be extended and this can be secured by condition. A fire engine can be turned within the site. Fifteen vehicle parking spaces are proposed which accord with one space per bedspace. This is in accordance with the adopted Vehicle Parking Standards. Two of the spaces will be fitted with electric charging points.

Secure and sheltered cycle parking is proposed and is acceptable.

The plans indicate the site will be surrounded by a 2m high fence. This accords with what is normally Permitted Development and I consider this acceptable. However, where the boundary treatment is between the building line on Staveley Road and the highway edge, I consider it should be lower to aid visibility. This can be secured through a clause on boundary treatments in a landscaping related condition.

The use of sustainable means of transport can be encouraged by the provision of travel packs to new residents of the scheme. This can be secured by condition.

#### Waste storage and collection

The bin store is not an acceptable size for the number and size of flats proposed. However, there is space within the site for extra bin storage and the Inspectors did not have significant concerns about this matter in the two appeal decisions. I therefore consider that the bin storage can be addressed by condition.

At around 24m from the highway, the proposed bin store will not be eligible for assisted collection, for which the maximum distance is 10m. As such, bins will only be emptied should they be brought to the highway edge. No storage area is proposed close to the highway edge and there is no space for one within the application site without reducing the width of the already narrow driveway, which is a minimum of around 4.8m wide and 6.1m wide along the edge of Staveley Road. Therefore, this arrangement is likely to lead to bins blocking the end of the driveway or the public pavement on bin collection days. Alternatively, the residents of the flats could arrange for a private collection of waste from the designated bin store. The Inspectors did not have significant concerns about this matter in the two appeal decisions. While not ideal, I therefore consider this is not a concern significant enough to sustain a refusal of this application.

#### Water environment

A document that addresses the Sequential and Exception Tests for Flooding has been submitted with this application.

#### *Sequential Test for Flooding*

The site is within Main River (MR) Flood Zones 1, 2, 3a & 3b, Surface Water (SW) Flood Zones 1 & 2 and Ordinary Watercourse (OW) Flood Zone 1.

The proposed flats, garden and car park are all in MR Flood Zone 1, with the driveway to Staveley Road in MR Flood Zones 2, 3a & 3b.

A large part of the site is within SW Flood Zone 1. Parts of where the proposed garden and car park will be and a small part of the proposed building are within SW Flood Zone 2.

A Sequential Test has not previously been carried out for this type of development on this site

The Council has produced Flood Risk Assessment (FRA) Guidance that includes the Sequential and Exception Tests. It divides the city into six zones. It indicates that an appropriate area of search for alternative sites is the zone in which the proposed scheme is. 22a Staveley Road is within the Inner Area.

For the Sequential Test to be passed, three parts need to be addressed, which I discuss as follows.

1. *Are there sites available in the area that are sequentially preferable (in a lower flood risk zone)?*
2. *Can those sites reasonably accommodate the development?*
3. *Are those sites available? Is it for sale?*

The FRA Guidance states that *'Alternative sites for sites of under 10 units cannot readily be identified from the current SHLAA. Applicants wishing to pursue a proposal on such a site may instead gather evidence for a Sequential Test by consulting local property agents' listings. A minimum of two property agents should be consulted.'*

The FRA Guidance goes on to state that *'A site is only considered to be reasonably available if all of the following bullet points below apply:*

- *The site is within the agreed area of search. (Using the areas shown on the plan in appendix 1).*
- *The site is of comparable size and can accommodate the requirements of the proposed development.*
- *The site is either:*
  - a. *Owned by the applicant;*
  - b. *For sale at a fair market value; or*
  - c. *Is publicly owned land that has been formally declared to be surplus and is available for purchase.*
- *The site is not safeguarded in the Local Plan for another use. Sites are not considered to be reasonably available if they fail to meet any of the above requirements or already have planning permission for a development that is likely to be implemented.'*

The applicant has approached three estate agents asking whether there are sites available within the Inner Zone that could take a development of around the proposed size. These estate agents have provided letters stating that they have no such available sites on their books.

The applicant has also examined the list of sites identified in the Strategic Housing and Economic Land Availability (SHELAA) Summary of Sites (2017). None of these sites are available and some of them are, at least in part, are at a higher risk of flooding than the application site.

#### *Exception Test for Flooding*

A block of flats with no basement clearly falls within the More Vulnerable class, as defined by the Flood Risk Vulnerability Classification in Planning Policy Guidance (PPG). I consider that it is less clear which class a driveway leading to a block of flats falls within. Does it fall within the class of the block of flats that it will serve, or could it fall within another class?

The applicant considers that the driveway falls within the Essential Infrastructure class but does not explain why. Which class the flats and the driveway fall into is significant for this scheme. This is because the Flood Risk Vulnerability Classification table in PPG indicates that More Vulnerable uses should not be permitted within Flood Zone 3b, while Essential Infrastructure uses may be acceptable, so long as the Exception Test is passed. I take what I consider to be a pragmatic approach that takes into account the history of the site and area which is as follows.

One part of Essential Infrastructure as defined by PPG is '*Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk.*' The site is surrounded by dwellings and a community centre. The only access to the site is by the driveway to Staveley Road and it has been this way since this part of the city was developed around the 1920's & 30's. Therefore, I take the view that the driveway has always been, and under this proposal will continue to be, '*Essential transport infrastructure*' for this site.

The Flood Risk Vulnerability Classification table in PPG states that for development classed as Essential Infrastructure, the '*Exception Test is required\**'. The footnote for \* states '*In Flood Zone 3b (functional floodplain) essential infrastructure that has to be there and has passed the Exception Test, and water-compatible uses, should be designed and constructed to:*

- *remain operational and safe for users in times of flood;*
- *result in no net loss of floodplain storage;*
- *not impede water flows and not increase flood risk elsewhere.'*

I will now address each of these three points.

#### *Remain operational and safe for users in times of flood*

While the driveway is estimated to be at very high risk of flooding, it is also estimated that in the event of a flood and including more extreme flooding events, the flood waters would be shallow. A scenario of 'danger for some' has been calculated for the access and egress from the site in the event of a flood. In the event of a flood, vulnerable people may need assistance, or in the most extreme cases, may need to stay in their flat. Their flat should provide a safe refuge as the area of the site for the proposed flats is within MR Flood Zone 1 and therefore at very low risk of flooding. The ground floor flats will be set 150mm above existing external ground levels in that part of the site. Emergency vehicles will be able to access the site during a flood. The Environment Agency has a free flood warning service and the Met Office a severe weather warnings service that are available to residents.

#### *Result in no net loss of floodplain storage*

The scheme will not reduce floodplain storage and will increase storage (through a green roof, permeable paving and attenuation tanks) for surface water originating on the site.

#### *Not impede water flows and not increase flood risk elsewhere*

A linear drain is needed at the entrance to the driveway next to Staveley Road. This is to intercept and prevent surface water from travelling onto the highway. This can be secured by condition.

With a linear drain secured and the other drainage measures proposed, the scheme will not impede water flows and will reduce flood risk elsewhere by providing storage on the site and reducing the rate of surface water runoff from the site.

To pass the Exception Test PPG states a development must '*show that it will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.*' NPPF Paragraph 8 contains a definition of sustainable development consisting of three objectives '*which are interdependent and need to be pursued in mutually supportive ways*'. In shortened form, these are as follows:

a) *an economic objective*

b) *a social objective*

c) *an environmental objective*

The site has been used for commercial purposes since around the 1920's-30's. It is surrounded by dwellings and a community centre. Redeveloping it with flats removes the possibility that it may be used by a commercial use, that could cause disturbance to neighbouring residents. The city does not currently have a five year deliverable land supply for housing and the scheme will make a small contribution to addressing this. As such, the scheme is socially sustainable.

The loss of a small site that could continue to be used for commercial purposes is not of great significance to the provision of employment in the city and hence the scheme is economically sustainable.

The site is served by the existing streets in this area which will give residents of the scheme good access to community uses, places of employment, parks and public transport. With a good existing street network in this area residents can access facilities by sustainable means of transport. The scheme takes the opportunity to provide wildlife habitats and will reduce the rate of surface water runoff. The scheme involves redeveloping a site that was developed many years ago. As such, the scheme is environmentally sustainable.

In earlier parts of this report, I have discussed flood risk. Overall flood risk will be reduced and nowhere will flood risk increase. I consider the risk to residents of the scheme by flooding of the driveway is acceptable and their flats should be safe for the lifetime of the scheme. On balance, I consider that the wider sustainability benefits to the community will outweigh flood risk and therefore the scheme passes the Exception Test for flooding.

### *Sustainable Drainage System (SuDS)*

Policy CS02 indicates that for all new development the rate of SW runoff for the site should be reduced through a Sustainable Drainage System (SuDS). The site is within a Critical Drainage Area (CDA). This means that although SW flooding is reasonably unlikely to take place here, a rapid rate of SW runoff from the CDA may contribute to flooding in neighbouring Hotspots. Therefore, while reducing the rate of SW runoff through SuDS is desirable in all locations, it is particularly desirable in CDAs.

In addition to reducing the rate of SW runoff, a SuDS can also provide other benefits such as a range of wildlife habitats, multi-use areas (typically combining drainage with play space, landscaping and gardens), water quality, visual amenity, pose less of a threat to safety than other forms of drainage and have low and simple maintenance

requirements. A SuDS can achieve this through incorporating features such as soft landscaping, rain gardens, green and brown roofs, permeable paving and water butts.

The site has limited soil permeability and there is no watercourse on or next to the site. Therefore, surface water will be managed through a SuDS prior to discharge into the public sewer system. The SuDS will consist of a green roof, permeable paving and attenuation tanks. Water will pass through a flow control device before entering the public sewer system. The exact details of these features need to be approved and I recommend they are addressed by condition. The SuDS will also need to include a linear drain at the entrance to the driveway next to Staveley Road, to intercept and prevent surface water from travelling onto the highway.

The surface water drainage proposed has been designed for exceedance. Exceedance will be stored in the proposed car park where it is unlikely to cause significant harm.

#### *Foul drainage*

Foul drainage information has been provided and is acceptable. The exact details of these features need to be approved and I recommend they are addressed by condition.

#### Pollution

Kainth Autos on Dore Road should not pose a significant hazard to residents.

Due to potential past activity on the site the land should be investigated for contaminants and cleaned up if necessary. This can be secured by a condition.

#### Wildlife

The Biodiversity Impact Assessment, Enhancement and Management Plan (Ecology Resources, June 2021) submitted is acceptable. I recommend a condition be attached to secure a re-survey should development not commence within two years.

To achieve net gain in biodiversity (NPPF paragraph 170) and increase connectivity for wildlife to the wider natural environment, a number of enhancements are required. These include a biodiverse green roof on the flat roof and bat and Swift bricks integrated into the building. These can be secured by clauses in the landscaping related condition.

External lighting also has the potential to harm wildlife habitat. I recommend it be addressed by a condition.

#### Archaeology

There is considered to be minimal to no archaeological impact from this proposal due to the previous use history of the site; a structure is recorded on this location on the historic OS map sequence from at least the mid-20<sup>th</sup> century.

#### Other matters

One objector raised concerns that vegetables grown in neighbouring gardens may be harmed by car exhaust fumes from those living in or visiting the flats. It is unlikely a refusal for this reason could be sustained.

## Conclusion

The reuse and redevelop this site offers the following opportunities:

- To replace a non-conforming use (builder's yard) in a residential area with residential flats.
- Provide much needed housing to a standard that will provide residents with a good level of amenity over the course of their lives and to contribute to meeting a 5 year housing supply.
- To improve the character and appearance of the area by the replacement of a builder's yard and single storey building with a block of flats and garden.
- To reduce the rate of surface water runoff and secure other benefits through the use of a SuDS.
- To create wildlife habitat.

Taking into account the two appeal decisions which I consider should be given significant weight in your consideration, and the development plan, I consider that these opportunities have been taken. The scheme is therefore acceptable.

I recommend it be APPROVED subject to the following conditions.

#### CONDITIONS

1. The development shall be begun within three years from the date of this permission. (To comply with Section 91 of the Town & Country Planning Act 1990.)

2. Prior to the commencement of development (including the demolition of the existing building), the site shall be investigated for the presence of land and building contamination in accordance with the Phase 1 report (Ref : 1511R V2 Nico - Leicester). If contamination is found, then a scheme of remedial works to render the land and existing building safe for the development, shall be submitted to and approved in writing, by the local planning authority. Prior to the occupation of any flat, the approved remediation scheme shall be implemented, and a completion report shall be submitted to and approved in writing, by the local planning authority. Prior to the occupation of any flat, any parts of the site where contamination was previously unidentified and found during the development process shall be subject to remediation works carried out and approved in writing, by the local planning authority. The report of the findings shall include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to: human health, property (existing or proposed) including buildings, pets, service lines and pipes, adjoining land, ground waters and surface waters, ecological systems; (iii) an appraisal of remedial options, and proposal of the preferred option(s). This shall be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11". (To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy PS11 of the City of Leicester Local Plan.) (To ensure that the details are approved in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition.)

3. Prior to the commencement of development, full details of the Sustainable Drainage System (SuDS) together with implementation, long term maintenance and management of the system, shall be submitted to and approved in writing by the local planning authority. The SuDS shall include a linear drain at the entrance to the



driveway next to Staveley Road to intercept and prevent surface water from travelling onto the highway. No flat shall be occupied until the system has been implemented. It shall thereafter be managed and maintained in accordance with the approved details. Those details shall include: (i) full design details, (ii) a timetable for its implementation, and (iii) a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the system throughout its lifetime. (To reduce surface water runoff and to secure other related benefits in accordance with policy CS02 of the Core Strategy). (To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition.)

4. Prior to the commencement of development, details of foul drainage shall be submitted to and approved in writing, by the local planning authority. No flat shall be occupied, until the foul drainage has been installed in accordance with the approved details. It shall be retained and maintained thereafter. (To ensure appropriate drainage is installed in accordance with policy CS02 of the Core Strategy.) (To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition.)

5. Prior to the occupation of any flat, details of a lighting scheme shall be submitted to and approved in writing by the local planning authority. The details shall show the locations of lights, their type of light emittance and wavelength, and include a lux contour map showing the variation in light. The lighting shall be designed to cause minimum disturbance to wildlife that may or could inhabit the site. Lighting shall be installed only in accordance with the approved details and shall be retained as such thereafter (In the interest of protecting wildlife habitats and residential amenity and in accordance with NPPF (2021) paragraph 185 and policy CS17 in the Core Strategy.)

6. No lighting shall be installed at any time without prior agreement from the local planning authority. (In the interest of protecting wildlife habitats and residential amenity and in accordance with NPPF (2021) paragraph 185 and policy CS17 in the Core Strategy.)

7. Prior to the commencement of development, a Construction Method Statement (CMS), with consideration being given to protecting residents from noise and dust, the water environment and flood risk management, shall be submitted to and approved in writing by the local planning authority. The approved CMS shall be adhered to throughout the construction period. The Statement shall provide for: (i) the vehicle and pedestrian temporary access arrangements including the parking of vehicles of site operatives and visitors; (ii) the loading and unloading of plant and materials; (iii) the location and storage of plant and equipment (to minimise noise disruption i.e. generators. Where plant and equipment cannot be located to minimise noise disruption, sound attenuation methods should be employed); (iv) the erection and maintenance of security hoarding; (v) wheel washing facilities; (vi) measures to control the emission of dust and dirt during construction; (vii) a scheme for storage and management of waste resulting from excavation works; (viii) the proposed phasing of development and a detailed description of the works in each phase; (ix) the temporary access arrangement to the construction site; (x) procedures to ensure flood risk is managed on site during the period of works for personnel, plant and members of the

public; (xi) the procedures to ensure flood risk is not increased anywhere outside of the site for the duration of the works; (xii) the procedures to ensure pollution and sedimentation is minimised to any adjacent watercourse and the procedure to be used in case of a pollution incident. (To ensure the satisfactory development of the site, and in accordance with saved policies AM01 & UD06 of the City of Leicester Local Plan and Core Strategy policy CS02 & CS03.) (To ensure that the details are approved in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).

8. No construction, other than unforeseen emergency work, shall be undertaken outside of the hours of 07.30 to 18.00 Monday to Friday, 08.00 to 13.00 Saturday or at any time on Sundays or Bank Holidays, unless the methodology has been submitted to the City Council Noise and Pollution Team. The methodology must be submitted at least 10 working days before such work commences and agreed, in writing, by the City Council Noise and Pollution Team. The City Council Noise and Pollution Team shall be notified of any unforeseen emergency work as soon as is practical after the necessity of such work has been decided by the developer or by anyone undertaking the works on the developer's behalf. (To protect the amenity of residents in accordance with policies PS10 & PS11 in the 2006 City of Leicester Local Plan.)

9. No part of the development shall be occupied until secure and covered cycle parking has been provided in accordance with details shown on drawing DSA-20164-PL-AL-04-F. The cycle parking shall be retained thereafter. (In the interests of the satisfactory development of the site and in accordance with policies AM02 and H07 of the City of Leicester Local Plan).

10. Prior to the occupation of any flat, the proposed vehicle parking spaces (including electric charging points), turning space, driveway and alterations to the site access from Staveley Road shall be provided in accordance with the details shown on drawings DSA-20164-PL-AL-04-F & DSA-20164-PL-AL-05-C. They shall be retained as such thereafter. (To ensure a satisfactory means of access to the highway, and in accordance with policies AM01, AM02 & AM12 of the City of Leicester Local Plan and Core Strategy policy CS03.)

11. Prior to the occupation of any flat, the footway crossing to Staveley Road shall be altered in accordance with the Council's standards contained in the "Leicester Street Design Guide (First Edition)" (view from [www.leicester.gov.uk/6cs-design-guide](http://www.leicester.gov.uk/6cs-design-guide)). (To achieve satisfactory means of access to the highway, and in accordance with policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS03.)

12. All street works shall be constructed in accordance with the Leicester Street Design Guide, June 2020. (To a achieve a satisfactory form of development and in accordance with policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS03.)

13. Within one month of the occupation of any dwelling, the residents of that dwelling shall be provided with a 'New Residents Travel Pack'. The contents of this shall first be submitted to and approved in writing by the local planning authority. It shall include walking, cycling and bus maps, the latest relevant bus timetable information and bus travel and cycle discount vouchers. (In the interest of sustainable

development and in accordance with policy AM02 of the City of Leicester Local Plan and policy CS14 of the Core Strategy).

14. Notwithstanding the submitted details and prior to the occupation of any flat, details of the bin storage and collection arrangements shall be submitted to and approved in writing by the local planning authority. Prior to the occupation of any flat, the bin storage shall be provided in accordance with the details approved and shall be retained thereafter. (To ensure acceptable bin storage is provided in accordance with policy CS03 in the Core Strategy)

15. The ground floor flats and their associated parking and approach, shall be constructed in accordance with Category 2: Accessible and adaptable dwellings M4 (2) Optional Requirement of the Building Regulations. Prior to the occupation of any flat, completion certificates for the ground floor flats, signed by the relevant inspecting Building Control Body authority and certifying compliance with the above standards, shall be submitted to and approved in writing by the local planning authority. (To ensure the dwelling is adaptable enough to match lifetime's changing needs in accordance with Core Strategy policy CS06.)

16. Prior to the commencement of above ground development, the RAL colours for the windows, doors and fascias shall be submitted to and approved in writing by the local planning authority. The windows, doors and fascias shall be installed in accordance with the RAL colours approved. The other external materials shall be installed in accordance with the materials shown on the approved plan DSA-20164-PL-AL-02-E. (To maintain the character and appearance of the area and in accordance with policy CS03 of the Core Strategy.)

17. Prior to the commencement of above ground development, a detailed landscaping scheme showing the treatment of all parts of the site which will remain unbuilt upon shall be submitted to and approved in writing by the local planning authority. This scheme shall include details of: (i) the position and spread of all existing trees, shrubs and hedges to be retained or removed; (ii) new tree and shrub planting, including plant type, size, quantities and locations; (iii) means of planting, staking, and tying of trees, including tree guards; (iv) other surface treatments; (v) fencing and boundary treatments (including a treatment no higher than 1m in height where between the building line on Staveley Road and the highway edge); (vi) any changes in levels; (vii) the position and depth of service and/or drainage runs (which may affect tree roots) (viii) four integrated bat bricks & six integrated swift bricks grouped together in threes (ix) details of the green roof. The approved landscaping scheme shall be carried out within one year of completion of the development. For a period of not less than five years from the date of planting, the applicant or owners of the land shall maintain all planted material. This material shall be replaced if it dies, is removed or becomes seriously diseased. The replacement planting shall be completed in the next planting season in accordance with the approved landscaping scheme. (In the interests of amenity, and in accordance with policy UD06 of the City of Leicester Local Plan and Core Strategy policies CS03 & CS17.)

18. Should the development not commence within two years of the date of the last protected species survey (June 2021), then a further protected species survey shall first be carried out of all relevant features by a suitably qualified ecologist. The survey

results shall be submitted to and approved in writing, by the local planning authority, and any identified mitigation measures carried out before any development is begun. Thereafter, the survey should be repeated every two years until the development begins. (To comply with the Wildlife and Countryside Act 1981 (as amended by the CRow Act 2000), the Habitat and Species Regulations 2010 and CS17 of the Core Strategy.)

19. Development shall be carried out in accordance with the following approved plans:

Location Plan, DSA-20164-PL-AL-07, Rev B, received on the 22nd of June 2022

Proposed Elevations and Sections, DSA-20164-PL-AL-02, Rev E, received on the 22nd of June 2022

Proposed Floor Plans, DSA-20164-PL-AL-01, Rev E, received on the 22nd of June 2022

Proposed Site Layout, DSA-20164-PL-AL-03, Rev F, received on the 22nd of June 2022

Proposed Access and Visibility Plan, DSA-20164-PL-AL-05, Rev C, received on the 22nd of June 2022

Proposed Parking Layout, DSA-20164-PL-AL-04, Rev F, received on the 22nd of June 2022

Internal arrangement for each unit, DSA-20164-PL-AL-10, Rev A, received on the 22nd of June 2022

(For the avoidance of doubt).

#### NOTES FOR APPLICANT

1. All future residents of the scheme are encouraged to sign up for the Environment Agency's free Flood Warning service and the Met Office severe weather warnings email alert service.

2. It is unlikely that any construction or demolition work will be agreed outside of the hours detailed in Condition 8 unless the City Council Noise and Pollution Team is satisfied that:

a) the work will not be detrimental to occupiers of neighbouring properties  
or

b) the developer is able to demonstrate that there is no practicable alternative to the proposed work taking place outside of these hours.

3. Leicester Street Design Guide (First Edition) has now replaced the 6Cs Design Guide (v2017) for street design and new development in Leicester. It provides design guidance on a wide range of highway related matters including access, parking, cycle storage. It also applies to Highways Act S38/278 applications and technical approval for the Leicester City Local Highway Authority area. The guide can be found at:

<https://www.leicester.gov.uk/your-council/city-mayor-peter-soulsby/key-strategy-documents/> As this is a new document it will be kept under review. We therefore invite comments from users to assist us in the ongoing development of the guide.

4. The Local Highway Authority's (LHA) permission is required under the Highways Act 1980 and the New Roads and Street Works Act 1991 for all works on or in the highway. For new road construction or alterations to the existing highway, the developer must enter into an agreement with the LHA. For more information please contact [highwaysdc@leicester.gov.uk](mailto:highwaysdc@leicester.gov.uk).

5. Temporary direction signing for developments can be provided within the highway. The Local Highway Authority (LHA) requires all temporary signing schemes are designed, implemented and maintained to an appropriate and acceptable standard. The temporary signing scheme including details of the sign faces, locations and means of fixing must be submitted for approval. These signs must comply with the Traffic Signs Regulations and General Directions (TSRGD). Applications must be submitted to the LHA at least four weeks before the signs are to be erected. Applicants will agree to reimburse the LHA for the full costs involved in the processing of the application and any subsequent planning, design, implementation and maintenance of the signs. The Local Authorities (Transport Charges) Regulations 1998 refers, and charges are set in LCC minor charges report updated annually; available via this link <https://www.leicester.gov.uk/media/181997/minor-fees-and-charges-for-transportation-services-2020-2021.pdf>. In the event of signs not being removed expeditiously, the LHA will remove them and recharge the costs to the promoter. For more information please contact [highwaysdc@leicester.gov.uk](mailto:highwaysdc@leicester.gov.uk).

6. With regards to Condition 13 (Travel Packs) the contents of the pack are intended to raise the awareness and promote sustainable travel, in particularly for trips covering local amenities. The applicant should contact [highwaysdc@leicester.gov.uk](mailto:highwaysdc@leicester.gov.uk) for advice.

### **Policies relating to this recommendation**

2006_AM01	Planning permission will only be granted where the needs of pedestrians and people with disabilities are incorporated into the design and routes are as direct as possible to key destinations.
2006_AM02	Planning permission will only be granted where the needs of cyclists have been incorporated into the design and new or improved cycling routes should link directly and safely to key destinations.
2006_AM12	Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01.
2006_H07	Criteria for the development of new flats and the conversion of existing buildings to self-contained flats.
2006_PS10	Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
2006_PS11	Control over proposals which have the potential to pollute, and over proposals which are sensitive to pollution near existing polluting uses; support for alternative fuels etc.
2006_UD06	New development should not impinge upon landscape features that have amenity value whether they are within or outside the site unless it can meet criteria.
2014_CS02	Development must mitigate and adapt to climate change and reduce greenhouse gas emissions. The policy sets out principles which provide the climate change policy context for the City.
2014_CS03	The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment.

- The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'.
- 2014\_CS06 The policy sets out measures to ensure that the overall housing requirements for the City can be met; and to ensure that new housing meets the needs of City residents.
- 2014\_CS13 The Council will seek to maintain and enhance the quality of the green network so that residents and visitors have easy access to good quality green space, sport and recreation provision that meets the needs of local people.
- 2014\_CS14 The Council will seek to ensure that new development is easily accessible to all future users including by alternative means of travel to the car; and will aim to develop and maintain a Transport Network that will maximise accessibility, manage congestion and air quality, and accommodate the impacts of new development.
- 2014\_CS15 To meet the key aim of reducing Leicester's contribution to climate change, the policy sets out measures to help manage congestion on the City roads.
- 2014\_CS17 The policy sets out measures to require new development to maintain, enhance and strengthen connections for wildlife, both within and beyond the identified biodiversity network.
- 2014\_CS19 New development must be supported by the required infrastructure at the appropriate stage. Developer contributions will be sought where needs arise as a result of the development either individually or collectively.