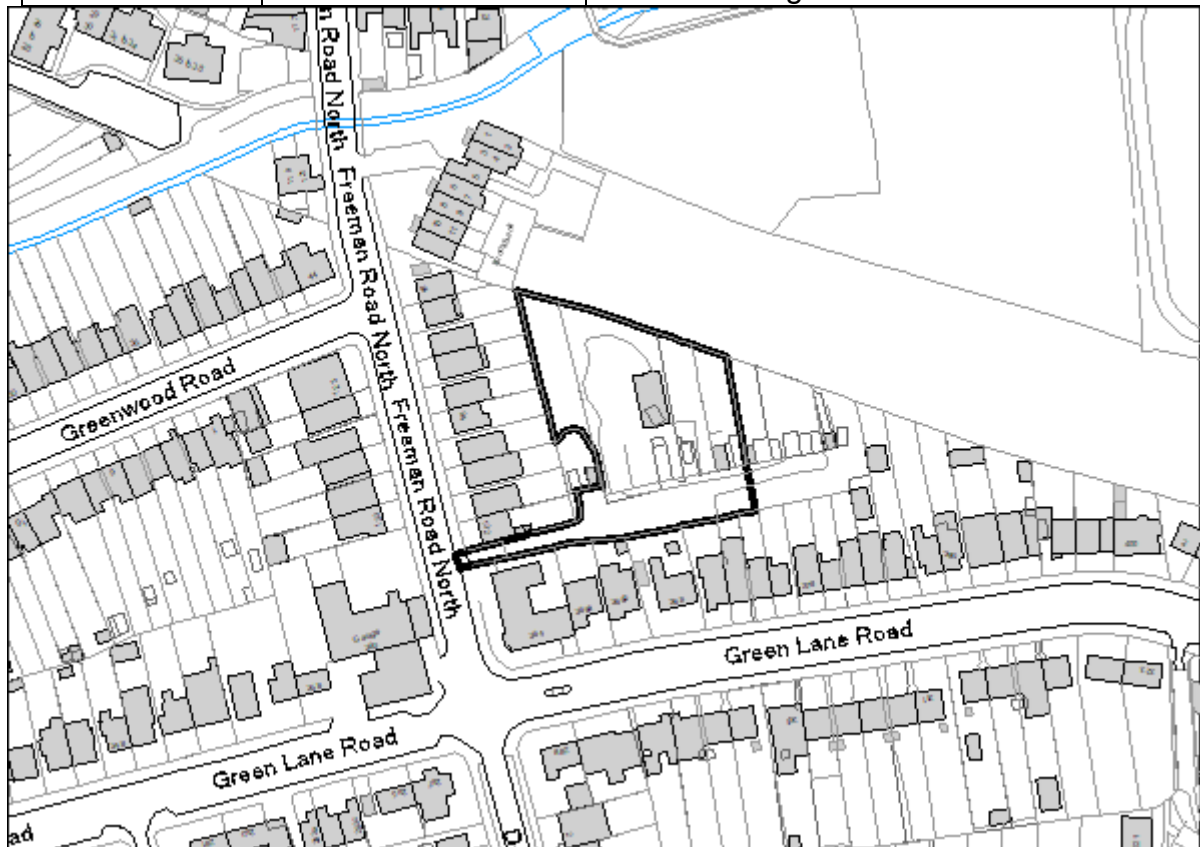


COMMITTEE REPORT

20231511	Freeman Road North, Rear Of 102, Builders Yard And Stores	
Proposal:	Retrospective application for change of use from land for the storage of building materials and equipment (Sui Generis) to land for the siting of 48 shipping containers for self-storage use (Class B8), and laying of gravel surface (AMENDED PLAN RECEIVED 07/11/2023)	
Applicant:	Mr O'Halloran	
App type:	Operational development - full application	
Status:	Minor development	
Expiry Date:	08 December 2023	
PB	TEAM: PD	WARD: Evington



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Summary

- Reported to Committee as more than five objections received from city addresses
- Objections raised concerning crime/anti-social behaviour, amenity and traffic/highway safety issues

- Main issues in this case are: the principle of development; the character and appearance of the area; the amenity of neighbouring occupiers (including site security); ecology and trees; traffic and highway safety; and drainage;
- Recommendation is for approval subject to conditions.

The Site

This application relates to a former builders' yard on a backland site to the rear of 86-102 (evens) Freeman Road North and 364-374 (evens) Green Lane Road. With the exception of 364 Green Lane Road, which occupies a corner plot at the junction of Green Lane Road and Freeman Road North and comprises a shop and a flat, and a hand car wash on the opposite corner of the junction, all of the surrounding properties are in residential use.

Adjoining the site to the east is another backland site (rear of 376-384 (evens) Green Lane Road) comprising a number of storage containers. Adjoining the site to the west is a small irregularly shaped parcel (rear of 98, 100 & 102 Freemans Road North) comprising a garage building and storage container. The application site and these two adjoining sites are served by a gated access from Freeman Road North (adjacent to 102 Freeman Road North and rear of 364, 366a & 366b Green Lane Road).

Adjoining the site to the north is the former railway embankment, now forming an area of woodland and known as the "Rally Bank". This is designated on the Local Plan (2006) proposals map as an area of green space and local nature reserve. It is also a biodiversity enhancement site and the trees are the subject of a group tree preservation order (TPO 398).

The application site is not designated or safeguarded for any particular use on the Local Plan proposals map. In terms of mapped environmental considerations, the north part of the site forms part of a critical drainage area and the whole of the site falls within a local authority air pollution control 250 metres buffer (of Green Lane Service Station).

Background

A Certificate of Lawfulness was issued in 2003 for the use of the land for the storage of building materials and builders' equipment (20022203). The first schedule of the Certificate states that:

Use for the storage of materials and builders equipment (no use class) on Monday to Friday only, between the hours of 0730 and 1800 hours only, with vehicular access by no more than 15 vehicles daily, which are less than 7.5 tonnes in size.

In late June 2023 the Planning Compliance & Monitoring team received a complaint about an alleged change of use at the site from personal storage to commercial storage with containers.

The Proposal

Following that complaint and subsequent investigation, this retrospective application seeks planning permission for a change of use from the last known lawful use for the storage of building materials and equipment (Sui Generis) to land for the siting of 48 shipping containers for self-storage use (Class B8). The application also seeks permission for the laying of a gravel surface that has been installed.

Information included in the planning application form states that the development started on 6th January 2023 and was completed on 10th February 2023. The hours of use proposed in the application are: 09:00 to 18:00 (every day).

A Design & Access and Planning Statement submitted with the application confirms that the site was previously used as a builders' yard, for the storage of materials and machinery by four different companies. It also states that the new use employs two people (on a part time basis) and provides a self-storage facility for local businesses and individuals.

Policy Considerations

National Planning Policy Framework (NPPF) (2023)

Paragraph 8 establishes three, overarching and interdependent objectives for sustainable development. They are: an economic objective; a social objective; and an environmental objective.

Paragraph 11 states that decisions should apply a presumption in favour of sustainable development. For decision taking this means: approving development proposals that accord with an up-to-date development plan without delay; and 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.

Paragraph 38 states that local planning authorities should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, and that decision makers should approve applications for sustainable development where possible.

Paragraph 43 states that the right information is crucial to good decision making and that applicants should discuss what information is needed with the local planning authority as early as possible.

Paragraph 56 states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development, enforceable, precise and reasonable.

Paragraph 81 states that planning decisions should help create the conditions in which businesses can invest, expand and adapt, and that significant weight should be placed on the need to support economic growth.

Paragraph 92 states that planning decisions should aim to achieve healthy, inclusive and safe places which (b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

Paragraph 111 states that development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety or severe cumulative impacts on the road network.

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, and goes on to recognise that good design is a key aspect of sustainable development.

Paragraph 130 sets out decisions criteria for achieving well designed places. It states that decisions should ensure that developments (a) will function well and add to the overall quality of the area; (b) are visually attractive as a result of good architecture; (c) are sympathetic to local character and history, including the surrounding built environment; and (f) create places 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 131 recognises that trees make an important contribution to the character and quality of urban environments, and states that planning decisions should ensure that existing trees are retained wherever possible.

Paragraph 134 states that development that is not well designed should be refused, taking into account any local design guidance and supplementary planning documents.

Paragraph 174 states that planning decisions should contribute to and enhance the natural environment by: (d) minimising impacts on and providing net gains for biodiversity; and (e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of air or noise pollution. It goes on to state that, wherever possible, development should help to improve local environmental conditions.

Paragraph 180 states that (a) if significant harm to biodiversity cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.

Paragraph 185 states that planning decisions should ensure that new development is appropriate for its location taking account of the likely effects of pollution on health and living conditions. It goes on to indicate that decisions should: (a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life; and (c) limit the impact of light pollution of light pollution from artificial light on local amenity.

Leicester Core Strategy (2014) and City of Leicester Local Plan (2006)

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

Supplementary Planning Documents and Other Guidance

None applicable.

Consultations

Highway Authority: No objection subject to conditions.

Lead Local Flood Authority: No objection subject to condition.

Leicestershire Police: No objection.

Pollution Control (Noise): No complaints received.

Trees & Woodlands: No objection.

Representations

10 representations (some including photographs) have been received from 9 city addresses, objecting to the application and raising the following issues:

Crime/Anti-Social Behaviour

- rise in anti-social behaviour at the site/criminal damage to neighbouring properties
- stress/anxiety/financial cost of anti-social behaviour at the site/criminal damage
- CCTV camera is the corner shop's
- CCTV should be installed
- entrance open 24/7 – risk of crime (suggest a controlled entry gate)
- anti-social behaviour a health and safety concern (suggest making rear of site secure)
- such facilities operate with limited oversight – susceptible to unauthorised access and misuse – suggest increased security, monitoring and maintenance
- applicant's website refers to 24 hours' access
- wooden fence installed by applicant has been broken and not repaired
- inadequate lighting/CCTV

- no employees/management at this site

Amenity

- noise at unsociable hours
- overlooking/loss of privacy from raised ground
- poor maintenance/damage to fences
- fires lit when cleaning rubbish – no consideration for neighbours
- commercial pollution
- landscaping will not mitigate the containers
- raised ground presses against fence and inadequate drainage
- should not be allowed in residential area – drawbacks outweigh benefits
- risk of fly tipping and rats
- loss of former greenery
- containers an eyesore
- site being used 24/7 (past the advertised opening times)
- waste dumped on other land
- adversely affected air quality
- impact on quality of life, community character and heritage

Traffic/Highway Safety

- extra traffic/in addition to car wash traffic
- access not safe – potential for accident with pedestrians
- Freeman Road North has become busier – commercial vans and trucks
- extra traffic on busy road close to busy junction

Other Issues

- loss of property value
- no community benefit (solely commercial users/venture)
- support comments have been fabricated
- increased insurance costs
- police incident reference numbers can be provided
- number of containers should be limited to 10

In addition, 10 representations have been received from 9 city addresses, offering support for the application and the following comments:

- will eradicate lawless/anti-social behaviour
- vehicles to site have reduced
- good use of site that has caused nuisance
- reduced anti-social behaviour since security cameras installed
- added value to the area
- fencing and gates to be installed
- cleaner site
- more daylight to house and garden
- feels safer
- has brought peace to neighbouring business

Consideration

The main issues in this case are: the principle of development; the character and appearance of the area; the amenity of neighbouring occupiers (including security of the site); ecology and trees; traffic and highway safety; and drainage.

The principle of development

Policy CS08 of the Core Strategy (2014) calls for city neighbourhoods to be sustainable places that people choose to live and work in. Policy CS10 commits the Council to work with partners to ensure that Leicester has a thriving and diverse business community that attracts jobs and investment to the City.

The site is not designated or safeguarded for any particular use on the Local Plan proposals map. There is no policy basis to resist the loss of the site's last lawful use as a builders' yard. The use of the site for the purpose the subject of this application is not in conflict within any strategic provisions of the development plan for the City and, as with the last lawful use, involves a relatively modest scale of non-residential activity within a predominantly residential area. I do not consider that the application development is inherently at odds with the stated aim of Policy CS08, and I acknowledge that the development has delivered some modest business investment in line with Policy CS10. I find that the acceptability of the development in this case will turn on the consideration of its specific local impacts.

I conclude that the application development is not in conflict with Policies CS08 & CS10 and that the principle of the development is acceptable.

Character and appearance

Policy CS03 of the Core Strategy (2014) states that development must respond positively to the surroundings and be appropriate to the local setting and context.

Although the site sits within a predominantly residential area, it is clear that there is a history of lawful and relatively modest scale non-residential activity. The development the subject of this application continues non-residential activity at the site of – broadly speaking – modest scale. I find that there has been no significant harm in terms of the character of the area.

As a backland site, the site does not have a conventional street frontage although glimpsed views may be obtained via the access driveway from Freeman Road North and (to a much lesser extent) via the gaps between the houses that surround the site. Insofar as the development is visible from these public vantage points, I do not consider that a harmful impact upon the appearance of the area could be demonstrated.

I conclude that the application development is not in conflict with Policy CS03 and that it is acceptable in terms of the character and appearance of the area.

Amenity of neighbouring occupiers (including the security of the site)

As noted above, Policy CS03 of the Core Strategy (2014) requires developments to be appropriate to the local setting and context. Saved Policy PS10 of the Local Plan (2006) sets out amenity considerations for new development, including: (a) noise, light and air pollution; (b) the visual quality of the area, including potential littering problems; (c) additional parking and vehicle manoeuvring; (d) privacy and overshadowing; (e) safety and security; and (f) the ability of the area to assimilate development. Saved Policy PS11 states that proposals which have the potential to pollute will not be permitted unless the amenity of users, neighbours and the wider environment can be assured. Saved Policy BE22 sets out criteria for the consideration of external lighting.

(a) noise, light and air pollution

The applicant has stated that the last lawful use of the site as a builders' yard was by four different companies. The use the subject of this application involves 48 storage containers. The Design & Access and Planning Statement submitted with the application states that the site is generating in the region of 5-10 vehicle trips per day, and that this is less than the site's previous use. I am not in a position to corroborate (or counter) this claim, but (even with each of the 48 containers separately let) I accept that it is improbable that each container would be visited by its user every day. Nonetheless, I have conservatively assumed that the new use will have involved *some* increase in the level of perceptible activity. The associated impacts could manifest primarily in the form of (i) noise from vehicle movements and the opening and closing of container doors, (ii) light pollution from vehicle headlights, and (iii) air pollution from vehicle exhaust fumes.

I acknowledge that these are significant issues for surrounding residents, and that the hours of use proposed - 09:00 to 18:00 (every day) - allow for weekend as well as weekday use (the lawful hours of use as a builders' yard were 0730 and 1800 hours, Monday to Friday only). I also note that the Pollution Control Officer has advised that no complaints about noise and pollution have been received by the Pollution Control team.

Whilst I consider it likely that the new use will have involved some increase in activity, relative to the last lawful use, I find that the hours of use proposed 09:00 to 18:00 (every day) would reasonably contain that activity, leaving residents with respite of 15 hours between the close of the site in the late afternoon/early evening and its re-opening the next morning. With such hours of use, it is my opinion that the impact of noise upon surrounding residential properties would not be unreasonable or unacceptable.

The Design & Access and Planning Statement submitted with the application states that the site will be managed in terms of the gates being unlocked at 9.00am and locked again at 6.00pm each day. Whilst this is welcome, I am mindful that the access also serves adjoining backland sites, the owners of which are not a party to this application. Accordingly, I find that a condition requiring the gates to be kept closed outside of the hours of use would not meet all of the tests for conditions (paragraph 56 of the NPPF). Instead, I recommend that the hours of use be secured by a condition controlling the hours of use, compliance with which would need to be monitored in the event of any of any alleged breach.

I note that third parties have alleged that the site is currently being used beyond the proposed opening hours and that the operator's website advertises 24/7 access. This has been raised with the applicant.

The boundaries with surrounding residential gardens are delineated by walls and fences. Furthermore, this is an open air site not within or near to an Air Quality Management Area (and I do not consider that the local authority air pollution control 250 metres buffer has any material bearing on the merits of the application development). It is my opinion that the impact of light and air pollution arising from the development upon surrounding residential properties is not unreasonable or unacceptable.

I do not consider that there has been any unreasonable or unacceptable noise, air and light pollution impact upon the adjoining non-residential uses.

(b) visual quality

The submitted plan shows that each container has a footprint of 6 metres x 2.4 metres and a height of 2.6 metres. The plan also shows (when scaled) that containers numbered 39-48 are sited between 4.4 and 5.5 metres from the rear garden boundaries of the nearest neighbouring properties in Freeman Road North (and between 15.8 and 17.5 metres from the ground floor rear elevations of those neighbouring dwellings), and that containers 1, 24 & 25 are sited between 8.0 and 9.0 metres from the rear garden boundaries of the nearest neighbouring properties in Green Lane Road (and between 14.0 and 20.0 metres from the ground floor rear elevations of those neighbouring dwellings). The containers are painted a dark green colour. A cross section drawing shows that the neighbouring Freeman Road North properties are approximately 0.8 metre lower than the application site.

In response to third party representations the applicant has stated that the ground level has not been raised. However, a gravel surface has been laid on the ground of the site and forms part of this application. The depth of this new surface has not been specified in the application, but from my own observations of the site I estimate that this will have a depth of no more than 10 centimetres.

In view of the modest height of the containers and their spatial relationship with neighbouring properties, I do not consider (even allowing for the lower level of the Freeman Road North properties) that the containers have an unacceptable visual impact upon the outlook from neighbouring dwellings or the setting of neighbouring gardens. The submitted plan proposes a hedge to be planted in the space to the rear of the containers 39-48, and that this hedge to be allowed to grow to a height of 2.5 metres. Although I am satisfied with the visual impact of the containers in their own right, I note that the hedge would (once established) screen the containers when viewed from the Freeman Road North properties, and may also have some minor benefit in terms of reducing noise pollution. I therefore welcome the intention to install the proposed hedge.

It is my opinion that the visual impact upon surrounding residential properties is not unreasonable or unacceptable.

I do not consider that there has been any unreasonable or unacceptable visual impact upon the adjoining non-residential uses.

(c) parking and manoeuvring

There is space between the containers for vehicles to temporarily park while loading/unloaded stored material, and the submitted plan shows space for two cars to park behind the rear boundary of 370 Green Lane Road. In these circumstances and in view of the nature of the new use, I do not consider that the development has led to any material additional on-street parking pressure and associated manoeuvring that impacts upon residential amenity.

I have already addressed the amenity impacts of vehicular activity within the site under (a) above.

(d) privacy and overshadowing

The new use, by its nature, involves use of the site by persons other than personnel of the operating company. However, the boundaries with surrounding residential gardens are delineated by walls and fences and I estimate that the gravel surface will have increased the site level by no more than 10 centimetres. I do not consider that legitimate activity at the site has had an unreasonable or unacceptable impact upon privacy at surrounding residential properties. I will consider non-legitimate (alleged anti-social and criminal) activity of the site separately below.

In view of the spatial relationship of the containers with neighbouring properties as described under (b) above, I do not consider that the containers cause any unreasonable or unacceptable loss of light to, or overshadowing of, neighbouring dwellings and their gardens.

(e) safety and security

The incidence of anti-social behaviour and criminal activity at the site is a recurring theme in objector representations, although I acknowledge that some supporter representations consider that the application has had, or will have, a beneficial impact in this regard. Some objectors have supplied photographs of alleged incidents (for example, of a child apparently throwing stones, and of apparent fly-tipping) and, whilst I am not in a position to corroborate the supplied photographs, it seems reasonable to assume that the problems are associated with intruders rather than legitimate users of the site.

In light of the representations received I have consulted the Leicestershire Police Designing-Out Crime Officer. In response, no objection has been raised, but detailed recommendations are made including the following: permitter enclosure to a height of at least 1.8 metres; use of CCTV; lighting; and foliage to be kept to a height of 1 metre (and trees 2 metres). I have furnished the applicant with a copy of the Designing-Out Crime Officer's response.

The Design & Access and Planning Statement submitted with the application states that CCTV cameras for site security have been fixed to the rear wall of 364 Green Lane Road, and that new 2 metres high fencing has been installed along the boundary with the Rally Bank. When I visited the site I observed that CCTV cameras had indeed been installed as described, and that apparently new timber fencing had indeed been installed along the north site boundary. However, the CCTV cameras are outside of the red line application site boundary, and I observed that the fencing has suffered some significant vandalism.

In response to the issues raised, the applicant has advised that they have met with the Police a number of times and are willing to work with the Police, and that an electricity supply is being installed on site to enable the installation of an electric gate, CCTV cameras and low-level lighting. Furthermore, an amended plan has been submitted during the course of the application to show the proposed installation of 2.1 metres high palisade railings (finished in a dark green colour) along the boundary with the Rally Bank.

In view of the probability that the safety and security problems being experienced by some third parties are associated with intruders rather than legitimate users of the site, I consider that it would be unreasonable to withhold planning permission, but rather to ensure that site security is enhanced through details that can be controlled by condition. The details should cover the installation of new gates at the site access from Freeman Road North, new gates and boundary treatment at the boundary with the adjoining backland site to the east, and the installation of CCTV and appropriate lighting (ensuring that any lighting installed does not cause unacceptable light pollution to neighbouring residential properties or the neighbouring local nature reserve). I would consult the Leicestershire Police Designing-Out Crime Officer upon receipt of details for approval pursuant to that condition. I also recommend a condition to ensure that the proposed palisade railings along the north boundary with the Rally Bank are installed and thereafter retained. With these enhancements to site security, I anticipate that neighbouring residents would experience a material reduction in the incidence of anti-social behaviour and criminal activity at the site, and consequently a reduction in stress/anxiety/financial cost associated with that behaviour and activity.

(f) the ability of the area to assimilate development

Subject to control of the hours of use and security enhancements, as addressed by recommended conditions, I am content that area is able to assimilate the development the subject of this application.

I conclude that the application development is not in conflict with Policies CS03, PS10, PS11 and BE22, and that it is acceptable in terms of amenity (including the security of the site).

Ecology and trees

Policy CS17 of the Core Strategy (2014) states that expects development to maintain, enhance and/or strengthen connections for wildlife. Saved Policy UD06 of the Local Plan (2006) states that planning permission will not be granted for any

development that impinges directly or indirectly upon landscape features of amenity value, including trees, unless (a) the removal of the feature would be in the interests of good landscape maintenance, or (b) the desirability of the proposed development outweighs the amenity value of the landscape feature.

As this is a retrospective application, the value of habitats that may previously existed on the site cannot be determined. That said, however, given the sites last lawful use as a builders' yard I consider it unlikely that the site in its former condition was of significant value for biodiversity. As I have already noted, the submitted plan proposes a hawthorn hedge to be planted in the space to the rear of the containers 39-48, and this hedge to be allowed to grow to a height of 2.5 metres. This has the potential to compensate for any former biodiversity value lost as a result of the development and provide for some enhancement, but only if the diversity of species to be planted is improved. I am satisfied that a Landscape and Ecological Management Plan, which can be secured by condition, could address this (and provide for the longer-term management of the hedge).

The Trees & Woodlands Officer has raised no objection but has noted that the already installed close-boarded timber fence along the north boundary with the Rally Bank is in close proximity to the adjacent group of TPO-protected trees. The proposed replacement of this fence with palisade railings poses the risk of additional disturbance to the adjacent trees, and in response to this concern the applicant proposes that the new railings be installed using existing fence post holes. This approach, together with the use of hand tools (only) for any necessary resizing of the post holes, should help to minimise the impact on tree roots and protected species. However, to ensure that full details of the method to be used in the installation of the railings can be agreed and enforced, I recommend that such details be controlled by condition.

I conclude that the application development is not in conflict with Policies CS17 and UD06 and that it is acceptable in terms of ecology and trees.

Traffic and highway safety

Policy CS15 of the Core Strategy (2014) calls for the provision of high quality cycle parking to encourage a modal shift away from the car. Saved Policies AM01 and AM02 of the Local Plan (2006) state (respectively) that planning permission will only be granted where the needs of pedestrians & people with disabilities and of cyclists has been successfully incorporated into the design. Saved Policy AM11 gives effect to the parking standards at Appendix 01 of the Plan for non-residential development.

Appendix 01 sets a standard of 1 space per 120 square metres floorspace of Class B8 warehousing; however, I do not find that this is relevant or useful in the consideration of the application development. The nature of the use is such that vehicle parking activity is likely to be predominantly characterised by short-stay drop off/pick up of stored items, and I am satisfied that there is sufficient space surrounding the containers for this to take place satisfactorily within the site. For the same reason – of the nature of the use – I do not find that it would serve any meaningful purpose to require on-site cycle parking in this case.

The arrangement of the containers on the site would enable vehicles to circulate in a forward gear. Nonetheless, the plan has been amended during the course of the application to demonstrate that there is sufficient space within the site for a vehicle to enter, turn and leave the site in a forward gear.

The local Highway Authority has advised that, having regard to the last lawful use of the site, it could not demonstrate that traffic generated by the new use would be greater than that which previously occurred. Accordingly, the Authority raises no objection to the application, but does recommend conditions requiring the loading and unloading areas and the turning space within the site to be kept available for these purposes. I am satisfied that these meet the tests for conditions and accordingly I recommend them. The Authority has also recommended that the proposed hours of use be adhered to, and I therefore add traffic and highway safety to the reason for the hours of use condition that I have already recommended.

I note that third parties have raised specific concerns in relation to traffic on Freeman Road North and at the junction with Green Lane Road and risk to pedestrians. In view of the Highway Authority's conclusions about the net impact of the development upon traffic, I do not consider that any severe cumulative impacts on the road network (that being the test set by paragraph 111 of the NPPF) could be demonstrated. The existing gates are set back sufficiently from the back-edge of the adjacent Freeman Road North footway to enable a vehicle to enter the driveway without obstructing the footway, and control (by condition) of the replacement gates can ensure that this continues to be the case. Furthermore, as I have already noted, there is sufficient space within the site to enable vehicles to enter and leave the site in a forward gear. In these circumstances, I do not consider that the development poses an unacceptable risk to the safety of pedestrians or others.

I conclude that the application development is not in conflict with Policies CS15, AM01, AM02 and AM11 and that it is acceptable in terms of traffic and highway safety.

Drainage

Policy CS02 of the Core Strategy (2014) states that all development should aim to limit surface water run-off by attenuation within the site as a means to reduce overall flood risk and protect the quality of the receiving watercourse by giving priority to the use of sustainable drainage techniques in developments.

The Lead Local Flood Authority (LLFA) raises no objection to the development subject to details of drainage being secured by condition. The rationale for this is that, whilst surface water run-off from the containers may drain through the new gravel surface, there are tarmac hardstanding areas close to the access from Freeman Road North.

The tarmac areas referred to appear to me to pre-date the application development (they are apparent on aerial photography from 2021 and earlier) and, in any event, these areas are to the south of the site and as such not within the mapped critical

drainage area. In these circumstances, I consider that a requirement for further drainage details to be agreed and installed would be disproportionate and would not meet all of the tests for conditions (paragraph 56 of the NPPF).

I conclude that the application development is not in conflict with Policy CS02 and that it is acceptable in terms of drainage.

Other matters

Turning to the matters raised in the third party representations and not otherwise addressed above:

- *fires lit when cleaning rubbish – no consideration for neighbours*: this is not a planning matter;
- *raised ground presses against fence*: any damage to private property is a civil matter;
- *loss of former greenery*: I do not consider it likely that there has been any unacceptable loss of greenery from the site;
- *impact on quality of life, community character and heritage*: subject to the implementation of controlled hours of use and other details that can be secured by conditions, I do not consider that there has been an unacceptable impact on quality of life, community character and heritage;
- *loss of property value*: this is not a planning matter;
- *no community benefit (solely commercial users/venture)*: I consider that the enhancements to site security that can be secured by conditions would provide some community benefit;
- *support comments have been fabricated*: no evidence has been submitted to substantiate this claim, and I have no other reason to believe that the support comments are anything other than genuine;
- *increased insurance costs*: this is not a planning matter;
- *police incident reference numbers can be provided*: this is not necessary;
- *number of containers should be limited to 10*: I have considered the application development on its own planning merits and have found it to be acceptable;
- *added value to the area*: this is not a planning matter; and
- *has brought peace to neighbouring business*: noted.

The Planning Balance

As noted above, paragraph 11 of the NPPF (2023) establishes a presumption in favour of sustainable development and sets out an explanation of what that means for decision taking.

I have found that the development – subject to conditions – can be retained and the use carried-on in a manner that accords with the relevant development plan policies. Accordingly, the presumption in favour of sustainable development applies and the application should be approved without delay.

Conclusions

This is a retrospective application for development that has already taken place, and several third party representations have been received both objection to and supporting the development.

I have found that the development raises no issues of principle and that, as a backland site, its impact upon the character and appearance of the area is acceptable. Subject to conditions, the retention and continued use of the development, its impact upon amenity (including the security of the site), ecology and trees, and traffic and highway safety is acceptable. I find that the application development is not unacceptable in terms of drainage. In accordance with paragraph 11 of the NPPF, the presumption in favour of sustainable development applies and the application should be approved without delay.

I recommend that this application for planning permission be APPROVED subject to the following conditions:

CONDITIONS

1. The use shall not be carried on outside of the hours of 09:00 to 18:00 daily. (In the interests of the amenity at neighbouring residential properties, and in the interests of traffic management and highway safety, and in accordance with Policy CS03 of the Leicester Core Strategy (2014) and saved Policies PS10 & PS11 of the City of Leicester Local Plan (2006)).
2. Within six months of the date of this permission, or such extended period as may be agreed in writing by the local planning authority, the following site security measures shall be installed in accordance with details that shall first have been submitted to, and approved in writing by, the local planning authority: (a) new gates at the access from Freeman Road North; (b) new gates and other boundary treatment at the boundary with the adjacent site to the east; and (c) a CCTV system and external lighting. The details of the new gates under (a) shall include their siting from the back edge of the adjacent footway in Freeman Road North. The details of external lighting under (c) shall include measures to prevent light pollution to neighbouring residential properties and to the neighbouring local nature reserve. The site security measures so installed shall thereafter be retained. (In the interests of safety and security at the site and at neighbouring properties, and in the interests of highway safety, and to ensure that external lighting does not cause light pollution injurious to amenity and biodiversity, and in accordance with Policies CS03 and CS17 of the Leicester Core Strategy (2014) and saved Policies AM01, BE22, PS10 & PS11 of the City of Leicester Local Plan (2006)).
3. Within six months of the date of this permission, or such extended period as may be agreed in writing by the local planning authority, the railings shown on the approved plan shall be installed along the entire length of the site's north boundary (with the neighbouring local nature reserve) in accordance with a method of installation that shall first have been submitted to, and approved in writing by, the local planning authority. The railings so installed shall thereafter be retained. (In the interests of safety and security at the site and at neighbouring properties, and to ensure that the installation of the railings is not injurious to protected trees and

biodiversity, and in accordance with Policies CS03 and CS17 of the Leicester Core Strategy (2014) and saved Policy UD06 of the City of Leicester Local Plan (2006)).

4. Within three months of the date of this permission, or such extended period as may be agreed in writing by the local planning authority, a Landscape and Ecological Enhancement Plan shall be submitted to, and approved in writing by, the local planning authority. All planting shall be installed in accordance with the within approved Plan and within the first available planting season following the approval of the Plan. Thereafter, all planting shall be established and (for a period of not less than thirty years following the completion of the development) shall be maintained in accordance with the approved Landscape Ecological Management Plan. (In the interests of biodiversity enhancement, and in accordance with Policy CS17 of the Leicester Core Strategy (2014)).

5. The spaces between the containers shall be kept free from obstruction and shall be permanently available for loading and unloading to take place within the site. (To ensure that the space within the site remains fit for purpose and in the interests of highway safety, and in accordance with Policy CS03 of the Leicester Core Strategy (2014) and saved Policy AM01 of the City of Leicester Local Plan (2006)).

6. The vehicle turning space shown on the approved plan shall be kept free from obstruction and shall be permanently available to enable vehicles to always enter and leave the site in a forward direction. (To ensure that the space within the site remains fit for purpose and in the interests of highway safety, and in accordance with Policy CS03 of the Leicester Core Strategy (2014) and saved Policy AM01 of the City of Leicester Local Plan (2006)).

7. The change of use shall be carried on in accordance with the following approved plans: AVD-781-FRN-PL02 Rev.C (As Built Currently) rec'd 07/11/2023. (For the avoidance of doubt).

NOTES FOR APPLICANT

1. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received. This planning application has been the subject of positive and proactive discussions with the applicant during the process (and/or pre-application).

The decision to grant planning permission with appropriate conditions taking account of those material considerations in accordance with the presumption in favour of sustainable development as set out in the NPPF 2023 is considered to be a positive outcome of these discussions.

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_AM11 Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.
- 2006_BE22 Planning permission for development that consists of, or includes, external lighting will be permitted where the City Council is satisfied that it meets certain criteria.
- 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_CS08 Neighbourhoods should be sustainable places that people choose to live and work in and where everyday facilities are available to local people. The policy sets out requirements for various neighbourhood areas in the City.
- 2014_CS10 The Council will seek to ensure that Leicester has a thriving and diverse business community that attracts jobs and investment to the City. The policy sets out proposals to achieve this objective.
- 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.