



Leicester
City Council

**MEETING OF THE PLANNING AND DEVELOPMENT CONTROL
COMMITTEE**

DATE: WEDNESDAY, 28 OCTOBER 2020
TIME: 5:30 pm
PLACE: Virtual Meeting Via Zoom

Members of the Committee

Councillor Riyait (Chair)
Councillor Aldred (Vice-Chair)

Councillors Gee, Halford, Joel, Rae Bhatia, Thalukdar, Valand and Whittle

One unallocated Labour group place

One unallocated Non group place.

Members of the Committee are summoned to attend the above meeting to consider the items of business listed overleaf.

For Monitoring Officer

Officer contact:

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e-mail: elaine.baker@leicester.gov.uk / aqil.sarang@leicester.gov.uk / ayleena.thomas@leicester.gov.uk
Democratic Support, Leicester City Council, City Hall, 115 Charles Street, Leicester, LE1 1FZ

Information for members of the public

PLEASE NOTE that any member of the press and public may listen in to proceedings at this 'virtual' meeting via a weblink which will be publicised on the Council website before the meeting. Members of the press and public may tweet, blog etc. during the live broadcast as they would be able to during a regular Committee meeting at City Hall / Town Hall. It is important, however, that Councillors can discuss and take decisions without disruption. The only participants in this virtual meeting therefore will be the Committee members, the officers advising the Committee and any applicants, objectors and Ward Members relevant to the applications to be considered who have registered to participate in accordance with the Committee's rules on public speaking.

Attending meetings and access to information

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Further information

If you have any queries about any of the above or the business to be discussed, please contact any of the following Democratic Support Officers:

Elaine Baker, tel: 0116 454 6355 (email: elaine.baker@leicester.gov.uk)

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For Press Enquiries - please phone the **Communications Unit on 0116 454 4151**

PUBLIC SESSION

AGENDA

LIVE STREAM OF MEETING

A live stream of the meeting can be followed on the following link:

https://www.youtube.com/channel/UCddTWo00_gs0cp-301XDbXA

1. APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

Members are asked to declare any interests they may have in the business to be discussed on the Agenda.

Members will be aware of the Code of Practice for Member involvement in Development Control decisions. They are also asked to declare any interest they might have in any matter on the committee agenda and/or contact with applicants, agents or third parties. The Chair, acting on advice from the Monitoring Officer, will then determine whether the interest disclosed is such to require the Member to withdraw from the committee during consideration of the relevant officer report.

Members who are not on the committee but who are attending to make representations in accordance with the Code of Practice are also required to declare any interest. The Chair, acting on advice from the Monitoring Officer, will determine whether the interest disclosed is such that the Member is not able to make representations. Members requiring guidance should contact the Monitoring Officer or the Committee's legal adviser prior to the committee meeting.

3. MINUTES OF THE PREVIOUS MEETING

Members are asked to confirm that the minutes of the meeting of the Planning and Development Control Committee held on Wednesday 16 September 2020 are a correct record.

4. PLANNING APPLICATIONS AND CONTRAVENTIONS [Appendix A](#)

The Committee is asked to consider the recommendations of the Director, Planning, Development and Transportation contained in the attached reports, within the categories identified in the index appended with the reports.

(i) 20201063 - 26 ASQUITH BOULEVARD

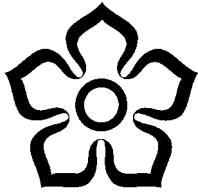
[Appendix B](#)

(ii) 20201275 - 115 UPPINGHAM ROAD, HAND CAR WASH [Appendix C](#)

(iii) 20201345 - 1-1A MONSELL DRIVE [Appendix D](#)

(iv) 20201655 - 1 THE ROUNDWAY [Appendix E](#)

5. ANY URGENT BUSINESS



Leicester
City Council

**Wards:
See individual reports.**

Planning & Development Control Committee

Date: 28th October 2020

REPORTS ON APPLICATIONS AND CONTRAVENTIONS

Report of the Director, Planning and Transportation

1 Introduction

- 1.1 This is a regulatory committee with a specific responsibility to make decisions on planning applications that have not been delegated to officers and decide whether enforcement action should be taken against breaches of planning control. The reports include the relevant information needed for committee members to reach a decision.
- 1.2 There are a number of standard considerations that must be covered in reports requiring a decision. To assist committee members and to avoid duplication these are listed below, together with some general advice on planning considerations that can relate to recommendations in this report. Where specific considerations are material planning considerations they are included in the individual agenda items.

2 Planning policy and guidance

- 2.1 Planning applications must be decided in accordance with National Planning Policy, the Development Plan, principally the Core Strategy, saved policies of the City of Leicester Local Plan and any future Development Plan Documents, unless these are outweighed by other material considerations. Individual reports refer to the policies relevant to that application.

3 Sustainability and environmental impact

- 3.1 The policies of the Local Plan and the LDF Core Strategy were the subject of a Sustainability Appraisal that contained the requirements of the Strategic Environmental Assessment (SEA) Directive 2001. Other Local Development Documents will be screened for their environmental impact at the start of preparation to determine whether an SEA is required. The sustainability implications material to each recommendation, including any Environmental Statement submitted with a planning application are examined in each report.
- 3.2 All applications for development falling within the remit of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 are screened to determine whether an environmental impact assessment is required.

- 3.3 The sustainability and environmental implications material to each recommendation, including any Environmental Statement submitted with a planning application are examined and detailed within each report.
- 3.4 Core Strategy Policy 2, addressing climate change and flood risk, sets out the planning approach to dealing with climate change. Saved Local Plan policies and adopted supplementary planning documents address specific aspects of climate change. These are included in individual reports where relevant.

4 Equalities and personal circumstances

- 4.1 Whilst there is a degree of information gathered and monitored regarding the ethnicity of applicants it is established policy not to identify individual applicants by ethnic origin, as this would be a breach of data protection and also it is not a planning consideration. Section 149 of the Equality Act 2010 provides that local authorities must, in exercising their functions, have regard to the need to:
- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 4.2 The identity or characteristics, or economic circumstances of an applicant or intended users of a development are not normally material considerations. Where there are relevant issues, such as the provision of specialist accommodation or employment opportunities these are addressed in the individual report.

5 Crime and disorder

- 5.1 Issues of crime prevention and personal safety are material considerations in determining planning applications. Where relevant these are dealt with in individual reports.

6 Finance

- 6.1 The cost of operating the development management service, including processing applications and pursuing enforcement action, is met from the Planning service budget which includes the income expected to be generated by planning application fees.
- 6.2 Development management decisions can result in appeals to the Secretary of State or in some circumstances legal challenges that can have cost implications for the City Council. These implications can be minimised by ensuring decisions taken are always based on material and supportable planning considerations. Where there are special costs directly relevant to a recommendation these are discussed in the individual reports.
- 6.3 Under the Localism Act 2011 local finance considerations may be a material planning consideration. When this is relevant it will be discussed in the individual report.

7 Planning Obligations

- 7.1 Where impacts arise from proposed development the City Council can require developers to meet the cost of dealing with those impacts, such as increased demand for school places, through planning obligations. These must arise from the council's adopted planning policies, fairly and reasonably relate to the development and its impact and cannot be used to remedy existing inadequacies in services or facilities. The council must be able to produce evidence to justify the need for the contribution and its plans to invest them in the relevant infrastructure or service, and must have regard to the Community Infrastructure Levy Regulations 2010.
- 7.2 Planning obligations cannot make an otherwise unacceptable planning application acceptable.
- 7.3 Recommendations to secure planning obligations are included in relevant individual reports, however it should be noted however that the viability of a development can lead to obligations being waived. This will be reported upon within the report where relevant.

8 Legal

- 8.1 The recommendations in this report are made under powers contained in the Planning Acts. Specific legal implications, including the service of statutory notices, initiating prosecution proceedings and preparation of legal agreements are identified in individual reports. As appropriate, the City Barrister and Head of Standards has been consulted and his comments are incorporated in individual reports.
- 8.2 Provisions in the Human Rights Act 1998 relevant to considering planning applications are Article 8 (the right to respect for private and family life), Article 1 of the First Protocol (protection of property) and, where relevant, Article 14 (prohibition of discrimination).
- 8.3 The issue of Human Rights is a material consideration in the determination of planning applications and enforcement issues. Article 8 requires respect for private and family life and the home. Article 1 of the first protocol provides an entitlement to peaceful enjoyment of possessions. Article 14 deals with the prohibition of discrimination. It is necessary to consider whether refusing planning permission and/or taking enforcement action would interfere with the human rights of the applicant/developer/recipient. These rights are 'qualified', so committee must decide whether any interference is in accordance with planning law, has a legitimate aim and is proportionate.
- 8.4 The impact on the human rights of an applicant or other interested person must be balanced against the public interest in terms of protecting the environment and the rights of other people living in the area.
- 8.5 Case law has confirmed that the processes for determination of planning appeals by the Secretary of State are lawful and do not breach Article 6 (right to a fair trial).

9 Background Papers

Individual planning applications are available for inspection on line at www.leicester.gov.uk/planning. Comments and representations on individual

applications are kept on application files, which can be inspected on line in the relevant application record.

10 Consultations

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

11 Report Author

Grant Butterworth (0116) 454 5044 (internal 37 5044).

Appendix B

Recommendation: Conditional approval	
20201063	26 Asquith Boulevard
Proposal:	Change of use from dwelling house (Class C3) to residential care home (3 Bedrooms)(Class C2)
Applicant:	Jules Private Ltd
View application and responses:	https://planning.leicester.gov.uk/Planning/Display/20201063
Expiry Date:	21 September 2020
SSA	WARD: Knighton



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Summary

- The application is brought to committee due to the number of objections.
- 9 objections on grounds of use of the property as care home, neighbouring amenity, loss of privacy, potential noise and disturbance, antisocial behaviour and inadequate parking and highway safety.
- The main issues are the principle of the use, the impact on the residential character of the area; increased coming and goings, impact on amenity of nearby occupiers, highway safety and parking.
- The application is recommended for approval subject to conditions.

The Site

The application relates to a two storey dwellinghouse (4bed) (Class C3) with an integrated garage, located on a slip road Asquith Boulevard, on the southern side of

Asquith Way within a predominantly residential area. There is one off-street parking space in front of the garage and unrestricted on street parking along the road.

Background

There is no recent relevant planning history.

The Proposal

The application is for change of use to care home accommodate a maximum of three children at any point in time.

The property contains living room, a kitchen / dining room, toilet and laundry room at the ground floor which will be used as a shared facilities and 4 bedrooms with bathroom on the first floor. The fourth bedroom at first floor level will be used as an office/sleeping accommodation by the carers who will look after the three children.

There are no internal and external alterations required in order to facilitate the change of use to a care home.

The applicant state that:

- The children will be living as a single family unit. Whilst the proposal relates to a change of use from C3 dwelling to a care home to provide a home for three children with staff assisting to provide them with a homely environment similar to a typical family home.
- The use will be regulated by Ofsted and the Care Quality Commission and the children will be looked after in accordance with 'looked after children' regulations under section 20 of The Children's Act.
- There will be carers living offsite but attending the property 24/7 on a rota to support the children. There will be a manager who works 8am to 6pm Monday to Friday and alternate weekends to oversee the running of the premises.
- There will be other supporting professional visitors who will visit the children such as Social workers, local authority officer, and independent review Ofsted officer every 5 weeks.
- Friends and family are not allowed to meet at the property but are required to meet the child at a contact centre that is supervised. Such visits are pre-arranged via social workers.
- In terms of staff numbers there will be a support team of staff on duty during the day and during the night as required by Ofsted. The registered manager lives local and hence is able to act quickly to emergencies if the need arises. There will be a maximum of 2 support staff/carers and 1 Ofsted registered manager on site during the day and at night there will be 1 night sleep in staff available to look after the children.

Policy Considerations

National Planning Policy Framework (NPPF) 2019

Paragraph 2 states that applications for planning permission must be determined in accordance with development plans unless material considerations indicate otherwise.

Paragraph 11 states that there will be a presumption in favour of sustainable development.

Paragraph 108 states that development proposals should take up appropriate opportunities to promote sustainable transport modes; ensure safe and suitable access can be achieved for all users and; any significant impact (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable level.

Paragraph 109 states that development should only be 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 127- 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.

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

Appendix 1 CLLP 2006 - Vehicle Parking Standards.

Supplementary Planning Document (SPD): Residential Amenity

Consultations

Noise and Pollution Control have no objections.

Representations

9 letters of objections have been received from nearby occupiers raising the following concerns:

- Proposed change is not acceptable in a residential area with young families and children;
- This is a family residential road and it should remain this way;
- Concerned about the likely hood of any noisy, unruly, disruptive or anti-social behaviour;
- Variety of backgrounds, teenagers with emotional needs and behavioural issues would bring more disturbance than the average family home;

- Concerned about the possibility of crime and antisocial behaviour as a result of the new arrivals;
- Want to know if the placements would be long or medium term or short term crisis? Care provision could put a great strain on the local community and neighbourhood;
- The proposals are for a care home for three children aged 8-18 but give no details about ages, a family group etc. that could pose significant risk to neighbours;
- Loss of privacy with a continuing stream of teenagers potentially looking into house and garden;
- Private home would not create a stable environment for vulnerable children;
- The change in this status of this house would have a negative impact on neighbourhood;
- Concerned about safety of young children;
- There does not appear to be any provision for a member of staff to sleep in overnight does it mean that there is to be a waking member of staff overnight , if so that would not be like a home. The house would not offer the level of personnel security necessary given the built up area surrounding it;
- Use will increase the number of cars parked outside near the house and the level of traffic using narrow slip road, as there are already issues with parking for the residents, who have cars, and vans.
- Further effect regarding parking and vehicles coming and going to the property, shift change at various times;
- Submitted information states that the house is in Asquith Boulevard but it refers to Northampton and also that there is a double garage, when there is not. Clearly this is a copy of a different application elsewhere;
- There is a house, a 2 star hotel called Race Course House that has had a detrimental effect on environment, health and well-being; proposed use will have a negative impact on the area, the environment and the local sense of community;
- It may set a precedent for change of usage of this house or additional changes of use of other houses in the street;
- Once approved as a residential care home it would then be easier to become a secure residential institution such as that for young offenders;
- Lack of planning procedure of notifying residents; Insufficient publicity notification, nearby residents have not been notified and no site notice has been placed;
- Request that the closing date to be extended for questions/objections and to allow for all neighbouring properties to be consulted;
- Request that the Planning committee to take into consideration of objections before making any decision;
- Councillor Geoff Whittle also emailed on behalf of a constituent asking to respond to the objector's queries and to be kept informed.

Consideration

The main issues are principle of the use, level of accommodation, impact on amenity of nearby occupiers and whether the staff working on shift patterns will have significant change in the character of a dwelling-house through increased coming and goings, access and parking demand.

Principle of development

The City Council aims to facilitate the provision of a range of accommodation to meet the special housing needs of all City residents. The Council's Core Strategy Policy CS06 supports the provision of supported housing to meet other identified special needs

The property is located outside a restricted hotels, hostels and residential institutions area where CLLP policy H16 states that planning permission will not be granted for a change of use to a residential institution unless it can be demonstrated that there would be no adverse effects on the amenities of neighbours or on the residential character of the area.

There does not appear to be a concentration of such uses in the immediate locality.

The property is surrounded by predominantly residential properties. Whilst the change of use would result in the loss of a house, the proposed 3 bed care home will be a managed provision where assisted living is provided for the residents.

I consider the principle of the use is in accordance with the aims of Core Strategy policy CS06.

Amenity and character and appearance

Each of the bedrooms will be provided with good outlook from the existing windows. I consider an acceptable level of amenity will be provided in terms of outlook and natural light for each of the residents.

The three children to be housed will be accommodated within the existing bedrooms, and whilst some comings and goings to and from the house may increase, however this is unlikely to be significantly above the levels expected in a family house.

There are no internal and external alterations required in order to facilitate the change of use to a care home. I do not consider the proposal would adversely affect the residential character or appearance of the property or have any negative visual impact on the surrounding residential area or the street scene. I conclude that the proposal would comply with policies CS03, CS08 and PS10 and is acceptable in visual and residential amenity terms.

There is a medium sized garden area at the rear of the house, screened by a boundary fence which would provide satisfactory private amenity area, storage for cycle and bins for the residents.

Access and parking

Policy CS14 of the Leicester Core Strategy (2014) states that development should be easily accessible to all future users, and that it should be accessible by alternative means of travel to the car, promoting sustainable modes of transport such as public transport, cycling, and walking and be located to minimise the need to travel.

Appendix 1 of the City of Leicester Local Plan sets out the parking requirements for the City. The maximum number of parking spaces for a residential institution within Zones 3 and 4 is one space for every four bedrooms, which would equate to a maximum requirement for one off street car parking space. There is on-site parking available for at least two vehicles at the site. There is unrestricted on street parking on the slip road in front of the property. Moreover, it is located close to amenities and is in a sustainable location where there is regular bus services and use of sustainable modes of travel available to staff members. It is unlikely that permanent residents will have access to the cars.

Given the number of residents and the care staff required at any one time, I consider that the proposal will not have a detrimental impact on local on street parking capacity and the highway/parking impact of the proposal would not so severe to warrant a refusal

As such I do not consider that the proposal is contrary to saved policy AM11 of the City of Leicester Local Plan and Core Strategy policy CS14 and para 108 and 109 of the NPPF.

However, within Class C2 the property could be used for a residential school, college, training centre or a hospital. These uses could result in additional comings and goings, general disturbance and greater parking demand. Further consideration for these types of uses is necessary and for this reason I am recommending a condition that restricts the uses of the property to a care home.

Other matters

The issues /concerns over the use of the property, amenity, access and parking raised by the residents have been addressed in the above relevant sections.

The agent has stated that the use will be regulated by Ofsted and the Care Quality Commission. The property would provide a home for the three children with staff assisting to provide them with a living environment similar to a typical family home and the children will living as a single family unit.

The proposal is a managed provision and therefore issues relating to with crime and anti-social behaviour would be managed by care team and by the other law and enforcement agencies. Likewise, emotional needs and behavioural issues, security and supervision and health care provisions are matters for care team and other agencies.

The application has been given the publicity required and adjoining neighbouring properties have been notified and sufficient time have been allowed to submit their concerns. There is no requirement for posting site notices in this instance.

Conclusion

I consider that the use of the application property as a 3 bed-care home is an acceptable use within a residential area.

The property will be used in a way that is similar to a typical family house and as such, I do not consider the proposal would cause harm to the amenities of neighbouring properties or result in detrimental impact on the residential character of the surrounding area.

The development is not likely to cause severe harm to the local highway network or result in additional parking demand and is considered acceptable in highway terms. I consider that the proposal would be in accordance with the aims of the NPPF and development plan polices and guidance.

I therefore recommend **APPROVAL** subject to the following conditions

CONDITIONS

1. START WITHIN THREE YEARS

2. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, or any order amending or revoking and replacing that Order with or without modification, the premises shall not be used for any purpose other than for a care home within Class C2 of the Order, unless otherwise approved in writing by the local planning authority. (To enable consideration of the amenity, parking and highway safety impacts of alternative Class C2 uses, in accordance with Policies CS03, CS06 and CS14 of the Leicester Core Strategy (2014) and saved Policies PS10 of the Local Plan (2006.)

3. This consent shall relate solely to the application form and submitted plans received by the City Council as local planning authority on 18/06/2020, and revised supporting statement received on 14/09/2020 ,unless otherwise submitted to and approved by the City Council as local planning authority. (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.

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 2019 is considered to be a positive outcome of these discussions.

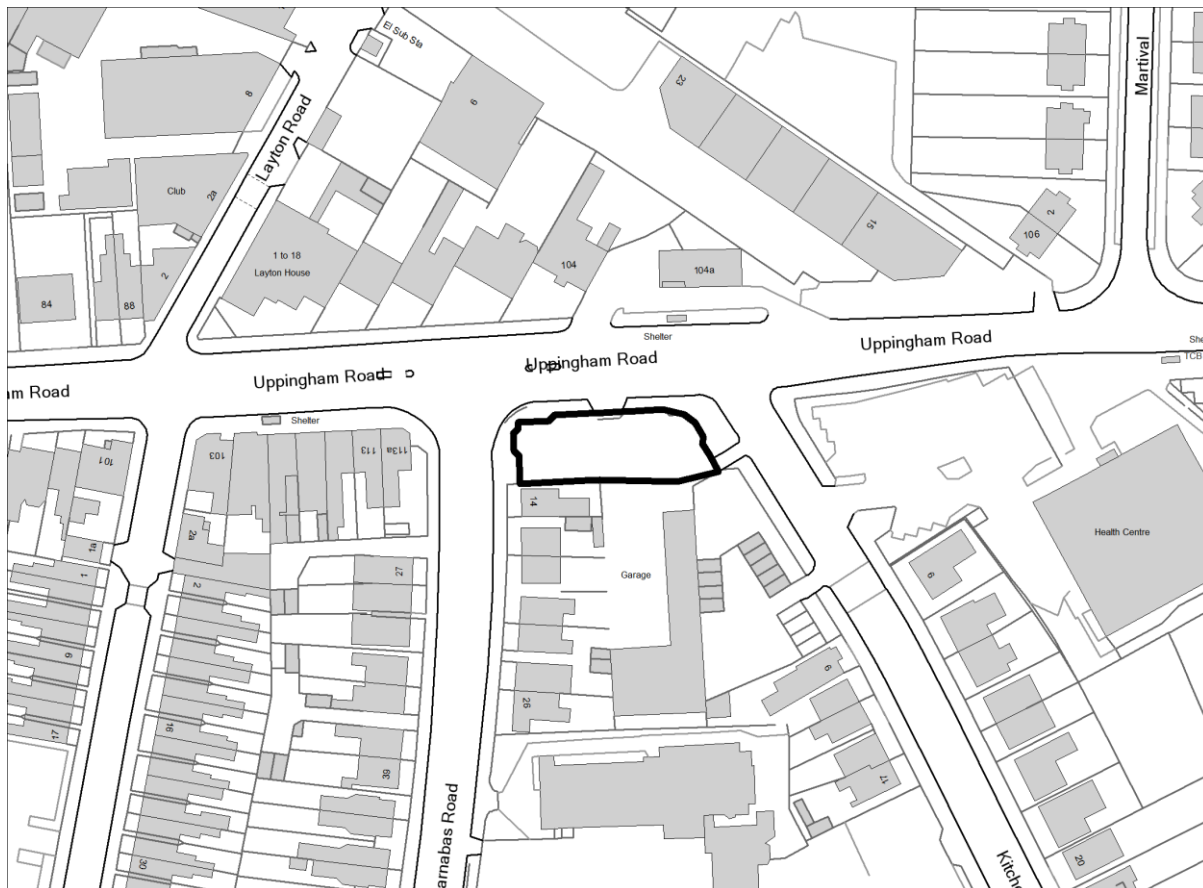
Policies relating to this recommendation

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_AM11	Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.
2006_H16	Planning permission will not be granted for new or extended hotels, hostels and residential institutions within Restricted Zones unless criteria can be met.
2006_PS10	Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
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_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_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_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.

Appendix C

Recommendation: Other or unclassifiable decision	
20201275	115 Uppingham Road, Hand Car Wash
Proposal:	Retrospective application for use of site as a car wash and window tinting service (Sui Generis); with associated outbuildings
Applicant:	Mr N Okeke
View application and responses:	https://planning.leicester.gov.uk/Planning/Display/20201275
Expiry Date:	5 November 2020
ACB	WARD: North Evington



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Introduction

- The application is being reported to committee at the request of Cllr Fonseca and Cllr Joshi.
- Issues are the impact on residential amenity, the highway, drainage, character and appearance and the setting of a listed building
- Recommendation is to decline to determine the application under section 70a of the Town and Country Planning Act 1990.

The Site

The site was previously used as a bus garage but has been in use as a car wash since 2015. It is located at the junction of Uppingham Road, St Barnabas Road and

Kitchener Road. The site is located within a mainly residential area with houses to the south. To the north of the site is a shop with houses to the east and west of this. To the west of the site is a doctor's surgery. To the east of the site is the Uppingham Road (West) Local Shopping Centre. There is a Grade II listed church to the south of the site. The site is located within flood zone 2.

Background

The planning history relates to the bus garage use however the building was destroyed by fire in 2007 and was subsequently demolished.

In September 2010 planning permission 20101308 was granted for demolition of fire damaged buildings; Installation of 2.4-metre-high fence and gates. This was implemented.

In July 2015 planning permission 20150744 was granted on a limited period basis for one year for use of the site as hand car wash, one temporary building, hardstanding. This was implemented.

In September 2016 planning permission 20161183 was granted on a limited period basis for one year for the continuation of the use of the site as a hand car wash, the installation of a tyre fitting facility and the installation of three temporary buildings. The car wash use has continued but the tyre fitting facility has not commenced and there are only two temporary buildings.

In August 2019 planning application 20190751 for retrospective consent for the use of the site as a car wash and a temporary building was refused for the following reasons;

- 1. The proposal, by reason of the level of noise generated by the vehicle washing process, would be detrimental to the residential amenity of the occupiers of 14 St Barnabas Road contrary to saved policy PS10 of the City of Leicester Local Plan.*
- 2. The proposal, by reason of the use of temporary buildings, represents poor design for a permanent use and is contrary to policy CS3 of the Leicester Core Strategy and paragraph 124 and 130 of the National Planning Policy Framework 2019.*
- 3. The proposal, by reason of the appearance of the site, has a detrimental impact on the setting of the Grade II listed building of St Barnabas Church, St Barnabas Road contrary to policy CS18 of the Leicester Core Strategy and paragraph 192 of the National Planning Policy Framework.*

In February 2020 planning application 20191799 for retrospective permission for the use of the site as a hand car wash was refused for the following reasons;

1. The proposal, by reason of the level of noise generated by the vehicle washing process, would be detrimental to the residential amenity of the occupiers of 14 St Barnabas Road contrary to saved policy PS10 of the City of Leicester Local Plan.

2. The proposal, by reason of the use of temporary buildings and the proposed 2.4m laminated due to use of materials and their location, represents poor design for a permanent use and is contrary to policy CS3 of the Leicester Core Strategy and paragraph 124 and 130 of the National Planning Policy Framework 2019.
3. The proposal, by reason of the appearance of the site, has a detrimental impact on the setting of the Grade II listed building of St Barnabas Church, St Barnabas Road contrary to policy CS18 of the Leicester Core Strategy and paragraph 193 of the National Planning Policy Framework.

An appeal against the refusal was dismissed by the Planning Inspectorate on 3rd July 2020 with the Inspector considering that the harm caused to the setting of the listed building, the effect of the design and appearance of the site on the character and appearance of the area and the harm to residential amenity was not outweighed by the benefits of the services provided or job creation. The Inspector's decision and the reasons for refusing the previous identical Application are relevant to the recommendation.

The application for the current proposal was received on 13 July 2020.

The Proposal

The proposal is exactly the same as refused application 20191799 in that it is for the continued use of the site as a hand car wash and window tinting service for a limited period of 36 months. The proposal also includes the relocation of the existing temporary buildings on the site to the rear to provide storage and an office. The window tinting area would be covered by a canopy. The application also seeks consent for the installation of 2.4m high laminated boards on the inside of the boundary fence to prevent water spraying onto the highway.

Policy Considerations

National Planning Policy Framework (NPPF) 2019

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.

Paragraph 109 advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Paragraph 120 states that planning decisions need to reflect changes in the demand for land and should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:

- a) they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and
- b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

Paragraph 124 states that the creation of high quality 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.

Paragraph 127 sets out criteria for assessing planning applications and requires decision makers to ensure that development proposals:

- 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 130 states that permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions.

Paragraph 155 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Development Plan policies

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

Most relevant Core strategy policies are CS2, CS3, CS18 and Local plan policy is PS10

Representations

Cllrs Fonseca and Joshi have requested that the application be determined by the Planning and Development Control Committee on the grounds that to require the use to cease would result in the loss of 5 jobs.

Consideration

Section 70A of The Town and Country Planning Act 1990 as amended by Section 123 of the Localism Act 2011 states

- (1) A local planning authority may decline to determine a relevant application if—
 - (a) any of the conditions in subsections (2) to (4) is satisfied, and
 - (b) the authority think there has been no significant change in the relevant considerations since the relevant event.
- (2) The condition is that in the period of two years ending with the date on which the application mentioned in subsection (1) is received the Secretary of State has refused a similar application [F4made to the Secretary of State under section 62A or] referred to him under section 76A or 77.
- (3) The condition is that in that period the Secretary of State has dismissed an appeal—

- (a) against the refusal of a similar application, or
- (b) under section 78(2) in respect of a similar application.

The purpose of the legislation was to restrict repeated planning applications for the same development where appeals against previous refusals had already been dismissed.

The NPPG provides:

Must a local planning authority decline to determine repeat planning applications?

Where an authority considers that an application is similar, it is not automatically obliged to decline to determine the application. The purpose of these powers is to inhibit the use of 'repeat' applications that the local planning authority believes are submitted with the intention of, over time, wearing down opposition to proposed developments. They are, however, designed to be flexible and to give local planning authorities the discretion to entertain 'repeat' planning applications where they are satisfied that a genuine attempt has been made to overcome the planning objections which led to rejection of the previous proposal or there has been a material change in circumstances.

Paragraph: 058 Reference ID: 14-058-20140306

In this case an appeal was dismissed less than a month before the submission of the application and the proposal is identical to that dismissed at appeal. I therefore consider that the provisions of section 70A apply in this case, and that there have been no material changes in circumstances and the Council should decline to determine the Application.

There is no right of Appeal if the Council declines to determine the Application under s70A but the decision can be challenged by judicial review if the decision falls outside the scope of s70A or is unreasonable.

If Members decide not to accept the recommendation, they should give reasons for a decision to determine the application notwithstanding the reasons given for the officer recommendation.

The application would then need to be determined; however the publicity and consultation period does not expire until 3rd November so such decision could not be made until after that date.

Principle of development

The site is located within an area which is predominantly residential in nature and therefore it is normally expected that either residential uses or uses normally found in residential areas would be the only acceptable uses for this site.

In this case it is acknowledged that the site is part of a former garage of which the remaining part is in use as a vehicle repair garage, however there are residential properties immediately to the south of the site on St Barnabas Road.

Hand car washes by their nature are not suitable permanent uses when they are the primary use, however they are sometimes acceptable permanent uses when they are a secondary use to a garage forecourt. In this case there is no connection between the vehicle repair garage and the hand car wash, and I therefore do not consider that the use could be considered to be a secondary use.

Hand car washes can sometimes be an acceptable temporary use in low grade employment sites where any impact on residential amenity can be kept to a minimum. Where temporary consents are granted these should also be kept to a short period to allow the owners to come forward with a redevelopment plan for the site.

Saved policy PS10 of the City of Leicester Local Plan states that in determining planning applications, the following factors concerning the amenity of existing or proposed residents will be taken into account including noise, light, vibrations, smell and air pollution (individually or cumulatively) caused by the development and its use.

Hand car washes especially those where jet washers are used, which is the case with this site, are noisy. Due to the fact that the cleaning of vehicles in this case takes place outside of a building; water, cleaning fluids and residue from the cleaning process can leave the site in an uncontrolled manner. The cleaning process results in a detrimental impact on the residential amenity of occupiers of nearby properties and would also have a detrimental impact on future occupiers of any possible development to the rear of the site.

The site has had two temporary consents for a hand car wash use previously. No formal plans for redevelopment of the site have been submitted although the applicant states that the owner is looking to redevelop the site once their current lease expires. Government guidance is that it will rarely be justifiable to grant a second temporary permission and that further applications should either be granted permanent permission or refused.

I do not consider that the details submitted justify a further temporary consent and I therefore consider that as permanent consent for a hand car wash would not be acceptable in this case the proposal is not acceptable in principle and contrary to policy PS10 of the City of Leicester Local Plan.

Design

The existing temporary storage containers are in a poor condition and are also used for the purposes of advertising for the site. They are proposed to be relocated to the rear of the site and would remain painted red and blue. Whilst their relocation to the rear of the site would reduce the degree of prominence that they currently have I still do not consider that they represent appropriate design for either a temporary or permanent use.

The canopy for the window tinting business is already in position on the site and is located to the front of the site. It is a metal structure with a fabric roof. It is also considerably higher than the surrounding fencing and is prominent within the site.

The planning statement submitted with the application states that the temporary buildings would be replaced with timber framed buildings however the submitted plans fail to show any details of these buildings and only indicate the relocation of the existing storage containers.

The proposal also includes the installation of 2.4m high blue laminate boards which would be located behind the existing metal fencing. It appears that this is an attempt to reduce the level of water spray onto the highway and whilst it may be required for this purpose, I consider that it would result in a poor appearance of the site.

In the July 2020 appeal decision the Inspector found that *“given the temporary and utilitarian appearance of the proposal, as described earlier in this decision, and the somewhat monotonous and overdominant appearance of the proposed blank 2.4m high perimeter boarding, the development would not be of sufficient architectural quality at this prominent urban node to enhance the character and appearance of this substantially residential area.”*

I agree with this view and I therefore consider that the proposal represents poor design that fails to improve the character and quality of the area contrary to policy CS3 of the Leicester Core Strategy and paragraph 124 and 130 of the National Planning Policy Framework 2019.

Heritage Assets

The site is located around 50m from the Grade II listed St Barnabas Church. Whilst it was considered that the initial temporary use of the hand car wash would not have had a significant impact on the listed building, I consider that the prolonged use of the site has since detrimentally affected the setting of the listed building.

In the July 2020 appeal decision the Planning Inspector found that *“the storage containers and operations on site would be visible from the public domain through the site entrance and access. The combined effect would be a temporary and utilitarian appearance, which would distract from and visually jar with the historical, architectural solidity and grandeur of the LB’s exterior. The above effect on the setting of the LB would be noticeable, to various degrees, from the following viewpoints: from around the junction of Uppingham Road and Kitchener Road; from Uppingham Road; and from within the appeal site.”*

I agree with this view and I therefore consider that the previous reason for refusal has not been overcome and that the proposal is contrary to policy CS18 of the Leicester Core Strategy and paragraph 192 of the National Planning Policy Framework 2019.

Residential amenity (neighbouring properties)

The applicant has submitted a letter of support for the proposal which is claimed to be from the occupier of 14 St Barnabas Road. As this was submitted with the application, I am unable to verify the letter particularly as there have been previous objections from the occupier of this property. I therefore do not consider that this letter outweighs the concerns explained earlier.

In the July 2020 appeal decision the Planning Inspector found that *“The following combination of factors is likely to generate substantial noise close to openable windows and the rear garden of No 14: operation of equipment including jet washers on the site; vehicle movements on, off and within the site, including car doors closing and the starting of engines; and general discussions between staff and customers and in the absence of a substantive noise assessment to demonstrate acceptable effects, I have no certainty that, in respect of noise, the proposal would avoid harm to future residents’ enjoyment of their property, including the rear garden.”*

I agree with this view and therefore consider that the proposal would be contrary to saved policy PS10 of the City of Leicester Local Plan.

Highways and Parking

The Local Highway Authority have not provided any comments on the application, however they previously provided comments on the last application. These were that although there had been a number of traffic accidents in the vicinity of the site these were at the road junctions and did not involve vehicles turning into the site. Concerns were raised over spray onto the highway; however, the proposed laminate boards would resolve these concerns. Signage has also been installed within the site to control the one-way system with access from Kitchener Road and egress onto St Barnabas Road with a left turn egress only.

Whilst the proposal would generate a significant amount of traffic, I consider that the previous garage use would also have generated a significant amount of traffic and I therefore do not consider that a refusal on the grounds of the impact on highway safety can be justified.

Drainage

The site is located within Flood Zone 2 where there is a moderate risk of flooding and a Critical Drainage Area. The applicant had previously advised during consideration of application 20161183 that the drainage strategy for the site is to use storage attenuation and waste water recycling which would then be disposed of via the Seven Trent surface water system. The Local Lead Flood Authority (LLFA) have not commented on the application. The proposal also includes replacing the existing water butts with larger ones that would also be located to the rear of the site and would be able to use more recycled water.

I therefore consider that the proposed system will not result in an additional impact on the flood risk in the area to warrant refusal of the application for this reason.

Conclusion

In conclusion consideration of this application would prolong the enforcement process which officers had started to commence. I consider that planning permission should not be granted for the application due to the reasons stated above and that if the application was to be determined the recommendation would be for refusal for the reasons the previous application was refused on Appeal.

I therefore consider that it is expedient and justified to decline to determine the application.

I recommend that the Council declines to determine the application under the provisions of section 70A of the Town and Country Planning Act 1900 and that the notification and wording of the decision is delegated to the Head of Planning.

Appendix D

Recommendation: Conditional approval	
20201345	1-1A Monsell Drive
Proposal:	Variation of conditions 11 (TPO trees to be protected from damage) & 12 (Existing trees, shrubs, hedges to be protected) attached to planning permission 20191818 (Demolition of existing apartment buildings (Class C3); Construction of two and three storey Care Home (60 Bed) (Class C2) to allow for changes to the tree protection measures and felling of four trees protected by TPO N4.0177 (Amended plan received 7/10/2020)
Applicant:	Mr Adrian Doyle
View application and responses:	https://planning.leicester.gov.uk/Planning/Display/20201345
Expiry Date:	30 October 2020
ACB	WARD: Aylestone



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Summary

- The application is being reported to committee due to the number of objections received.
- 17 objections have been received on the grounds that too many trees would be felled.
- Issues are the impact on the trees and amenity
- Application is recommended for approval.

The Site

The application relates to a site which is on the corner of Lutterworth Road and Monsell Drive which was originally occupied by a two-storey detached house. The site is located within an area that is largely residential in character.

The site is currently being developed as a care home.

27 individual trees on the application site and the adjacent undeveloped site are protected by a Tree Preservation Order (TPO) no N4.177. The TPO further covers a group of trees which are mainly Cypress trees on the boundary with 60 Lutterworth Road.

To the east of the site is a vacant plot which was occupied by a house. There are residential properties to the north, south and west of the site.

Background

In July 2005, permission was granted (20032496) for the erection of two 3-storey apartment blocks comprising 17 2-bedroom flats. This entailed demolition of the house that occupied the site.

In February 2006 planning permission (20051768) was refused for an increased number of flats to 24 on the grounds of increased traffic generation and a loss of character to the area. The scale of the buildings was similar to that previously approved.

An appeal against this decision was subsequently dismissed. The Inspector concluded that the proposed development would have no material effect on highway safety or traffic congestion in the area or on the availability of parking. Neither would it have a material detrimental effect on the character of the area with reference to density. However, the Inspector dismissed the appeal on the grounds that the proposed development was likely to result in future demands for the trees to the front of the development to be removed which would expose the buildings and they would appear stark and conspicuous on the prominent corner of Lutterworth Road and Monsell Drive. This, she concluded, would have a material harmful effect on the character and appearance of the site and the surrounding area.

Planning permission 20032496 has been implemented, with the smaller block facing Monsell Drive being predominantly complete and the external shell of the larger of the two blocks being finished. These buildings have since been demolished.

In July 2011 planning permission 20110503 was granted for change of use from seventeen self-contained flats to care home (62 bed); two-storey link extension; three storey extensions at front of blocks A and B; two storey and single storey extension at rear of block A. This permission was not implemented and has expired.

In January 2018 planning permission 20162240 was granted for change of use from flats to care home (50 bed and 4 x 2 bed assisted living apartments) (Class C2); construction of three storey extension at front; three storey extension at side and

rear; single storey detached bin store; single storey detached cycle store; associated landscaping and car parking. The development has not commenced.

In June 2018 planning permission 20180439 was granted to vary condition 22 of planning permission 20162240 to allow for the removal of the basement, an increase in height of the three-storey extension and the removal of the assisted living element to create an additional 10 bedrooms for the care home. This development has not commenced.

In August 2018 consent was granted under application 20181490 for the felling of one of the protected trees.

In March 2019 consent was granted for the felling of another of the protected trees.

Details have been submitted and agreed to discharge conditions 2, 3 11,12, 13, 14, 17, 20 and 21 of planning permission 20180439.

In December 2019 planning permission 20191818 was granted for the demolition of the apartment buildings and the construction of a two and three storey care home (60 bed) (Class C2). The development has commenced.

In March 2020 a report was received that the tree protection fencing was not in the position shown on the approved plans and that there had been some changes to the land levels which were also not shown. An investigation found that the tree protection fencing around 3 trees to the north east corner of the site was not in the correct place. This application has been submitted as a result of the investigation.

The Proposal

The proposal is to vary conditions 11 and 12 attached to planning permission 20191818 (“the extant consent”) to allow for a reduced tree protection area around three trees to the north east corner of the site.

The proposal also includes the felling of a Cypress tree in the garden area to allow for benches to be installed and the felling of some of the trees on the boundary of the site with 60 Lutterworth Road. One Plum tree and two Beech trees would have canopies reduced to allow for scaffolding to be installed.

Amended plans have been received that remove the felling of one of the Cypress trees and clarify that 3 trees to the boundary with 60 Lutterworth Road that are covered by the TPO will be felled. The amended plans also show that T19 of the TPO to the front of the site will be felled and a replacement tree will be planted.

Policy Considerations

National Planning Policy Framework (NPPF) 2019

The National Planning Policy Framework (NPPF) 2019 sets out the Government’s planning policies for England and how these are expected to be applied.

Paragraph 2 states that applications for planning permission must be determined in accordance with development plans unless material considerations indicate otherwise.

Paragraph 11 states that there will be a presumption in favour of sustainable development.

Paragraph 170 states that decisions should contribute to and enhance the natural and local environment by minimising impact on and providing net gains for biodiversity and prevent new development from contributing to, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

Development Plan policies

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

Consultations

Trees and Woodlands – In light of the finished levels of the site the proposal is acceptable and would result in minimal tree loss, most of which will be at the back of the site and new development, not seen by the public, there would remain sufficient tree cover on the rear boundary. It would not be possible to construct to the approved plans without the removal/changes to tree protection due to the car parking provision and these changes are therefore acceptable. Following receipt of the amended plans they confirm that the proposal to fell T19 and details of its replacement are acceptable.

Representations

17 objections have been received. The grounds of objection are;

- The developer knew the site had protected trees and should work around them
- The tree protection to the north east corner has already been located in the proposed position and has never been in the approved position
- The proposal will cause more damage to trees and lead to further applications to remove them.
- The previous buildings should not have been allowed to be demolished.
- The proposal will have more of an impact on wildlife in the area.
- Impact on residential amenity of neighbouring property due to further felling of trees on the southern boundary.
- Removing more trees will impact on drainage.

Cllr Porter has objected to the application on the grounds that the loss of trees would affect the amenity of the occupiers of neighbouring properties. Further that the developers should have been fully aware of the protection and that if the application is approved the whole tree protection policy should be abandoned.

Consideration

The principle of the development, including the design of the buildings and its surround has been established by the extant consent. This is an application to vary the conditions attached to an earlier permission the Council is only required to consider the questions of the conditions subject to which a new planning permission could be granted. However, the application must be determined according to the current development plan and relevant material considerations. There have been no changes to the materials considerations or Development Plan since the extant consent was granted but access for machinery to construct the approved development and the method of construction of the car park have resulted in a need to amend conditions 11 and 12 of the extant consent.

The main issues under consideration is the impact on the protected trees, removal of trees and visual and general amenity.

Although the application is for a variation of condition, if approved it would result in a new planning permission for the development, and as a result the other proposed conditions from the extant consent also need reviewing.

Impact on trees

The site is covered by a TPO and the extant consent included details of the tree protection methods. The majority of protection methods would remain as approved however in the north east corner of the site the protective fencing needs to be moved so that it is directly adjacent to the current position of tree T19 of the TPO and 3.3m from T17 of the TPO. This is to allow for construction of the parking spaces and for machinery to access the north east part of the site to enable the construction to occur. This part of the development has already occurred on site. I do not consider that it would result in significant compaction of the soil around the roots to result in the loss of these trees. I therefore consider that this element of the application is acceptable.

Government guidance on TPOs states that a local planning authority's consent is not required for carrying out work on trees subject to an Order so far as such work is necessary to implement a full planning permission. For example, the Order is overridden if a tree has to be removed to make way for a new building for which full planning permission has been granted. Condition 11 was therefore imposed to ensure that the protected trees would be retained on the site.

The proposal also includes felling of three Cypress trees on the boundary with 60 Lutterworth Road which are part of the group section of the TPO. I consider that this is acceptable as sufficient tree cover would remain.

The tree identified as T19 is located on the boundary with Monsell Drive and there are a number other mature trees in this location The amended plans show that tree T19 (Lime) of the TPO would be felled and replaced with a *Tilia cordata* 'Rancho' to be located near to T6 of the TPO. T19 needs to be felled as it is adjacent to the car park area and would suffer damage in the longer term. I consider that the proposal to

fell T19 and its replacement is acceptable. Condition 15 will ensure a suitable size of replacement tree is planted.

Amenity

The site has a dense coverage of trees and the removal of 4 trees will not significantly harm the visual amenity of the site and wider area to warrant a refusal.

As this is an application for variation of conditions it would result in a new planning permission being granted and therefore the other conditions require reviewing.

Other matters

A number of the objections say that the developers should have been aware of the tree protection. I consider that the developers were aware of the protected nature of the trees, however, plans for developments often change once contractors have been appointed and the application reflects the changing nature of the development.

One of the objections states that the previous buildings should not have been demolished. This has already been approved under the extant consent as the previous buildings on the site were found not to be of adequate construction standards and therefore had to be demolished in order to make use of the site.

Removal of the 4 trees is unlikely to significantly harm wildlife due to the still dense tree coverage on the site and the Nature Conservation Officer has not raised any objections

Condition 1

The development has already commenced; however, all planning permissions must have a start date and therefore I recommend a condition to reflect the approved start date.

Condition 2

The materials to be used were detailed in the original application and I therefore recommend a revised condition to reflect this.

Condition 3

Plant and machinery have not been installed yet and I therefore recommend a revised condition to reflect the previously approved details.

Condition 4

The parking areas have not yet been provided and the development is not occupied. I therefore recommend the same condition.

Condition 5

The cycle parking has not been provided and I therefore recommend a revised condition to reflect the approved details.

Condition 6

The Travel Plan is still a requirement and I therefore recommend the same condition.

Condition 7

The works to Monsell Drive has not been completed and I therefore recommend the same condition.

Condition 8

This is a condition which will require ongoing compliance and I therefore recommend the same condition.

Condition 9

The gate has not yet been installed and I therefore recommend the same condition.

Condition 10

All works are still to be carried out in accordance with the British Standard and I therefore recommend the same condition

Conditions 11, 12 and 13 are recommended to be amended to reflect the amended details.

Condition 14

The development is still at construction phase and therefore I recommend a revised version of the condition.

Condition 15

There is still a requirement for the trees lost to be replaced and I therefore recommend the same condition.

Condition 16

The combined heat and power system have not yet been installed and I therefore recommend the same condition to confirm its satisfactory operation.

Condition 17

The landscaping scheme has not yet been installed due to the stage of development. I therefore recommend the same condition.

Condition 18

There will still be a requirement for bin storage and I therefore recommend a revised version of the condition.

Condition 19

The sustainable drainage system has not yet been installed and the condition requires ongoing compliance. I therefore recommend a revised version of the condition.

Condition 20

Application 20201503 has been approved to discharge this condition. I therefore recommend an amended condition to reflect the approved details and require the installation to be carried out.

Condition 21

No plan of the lighting to be installed has yet been received and I therefore recommend the same condition.

Condition 22

The drainage has not yet been installed and I therefore recommend the same condition

Condition 23

The approved plans have not been amended and I therefore recommend a revised version of the condition.

Other matters

A number of the objections say that the developers should have been aware of the tree protection. I consider that the developers were aware of the protected nature of the trees, however, plans for developments often change once contractors have been appointed and the application reflects the changing nature of the development.

The previous buildings on the site were found not to be of adequate construction standards and therefore had to be demolished in order to make use of the site.

Conclusion

In conclusion, I consider that the changes to the tree protection areas will not have a significant impact on the root system of the trees to result in their loss. I further consider that due to dense tree coverage on the site the removal of three further trees adjacent to 60 Lutterworth Road and T19 fronting Monsell Drive will not have a significant impact on the amenity value of the trees or on the visual amenity of the site and wider area and complies with planning policy for the area.

I recommend that this application is APPROVED subject to the following conditions

CONDITIONS

1. The development shall be begun by 13 December 2022. (To comply with Section 91 of the Town & Country Planning Act 1990.)
2. The walls, roof, windows doors and other external materials shall be constructed in accordance with the details submitted in the application form and plan AL(0)060 submitted with application 20191818. (In the interests of visual amenity, and in accordance with Core Strategy policy CS3.)
3. Plant and machinery shall only be operated and installed in accordance with the details submitted on approved plan SK-001 rev P2 submitted to the City Council as Local Planning Authority under application 20191818 on 19 November 2019. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
4. Before the occupation of any part of the development, all parking areas shall be surfaced and marked out in accordance with details which shall first have been submitted to and approved by the City Council as local planning authority, and shall be retained for parking and not used for any other purpose. (To ensure that parking can take place in a satisfactory manner, and in accordance with policy AM11 of the City of Leicester Local Plan and Core Strategy policy CS3.)
5. No part of the development shall be occupied until secure and covered cycle parking has been provided and retained thereafter, in accordance with the details shown on the approved plan AL(9)901 rev J submitted with application 20191818. (In the interests of the satisfactory development of the site and in accordance with policy AM02 of the City of Leicester Local Plan).
6. The use shall only operate in accordance with the details submitted in the Travel Plan dated October 2016 and approved under application 20162240 The plan shall be maintained and operated thereafter. (To promote sustainable transport and in accordance with policies AM01, AM02, and AM11 of the City of Leicester Local Plan and policies CS14 and CS15 of the Core Strategy).
7. All street works shall be constructed in accordance with the Council's standards contained in the "6Cs Design Guide" (view from www.leicester.gov.uk/6cs-design-guide). (To achieve a satisfactory form of development, and in accordance with policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS3.)
8. No part of the development shall be occupied until the 2 metre by 2 metre sight lines on each side of each vehicular access have been provided, and they shall be retained thereafter. (In the interests of the safety of pedestrians and other road users, and in accordance with policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS3.)
9. The gate at the entrance from Monsell Drive shall be set back at least 5m from the footway and retained as such. (In the interests of highway safety and in

accordance with policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS3.)

10. All works shall be carried out in accordance with British Standard for Tree Work BS 3998:2010. (In the interests of the health and amenity value of the trees and in accordance with Policy UD06 of the City of Leicester Local Plan and Core Strategy policy CS3.)

11. All trees on the site subject to a Tree Preservation Order except for those to be felled shall be protected from damage during building operations, in accordance with details submitted on the approved plan ref no 4074 rev D received by the City Council as local planning authority on 9 October 2020 (In the interests of amenity, and in accordance with policy UD06 of the City of Leicester Local Plan and Core Strategy policy CS3.)

12. Prior to the commence of the development, all existing trees, shrubs or hedges to be retained on the site shall be protected by fences erected not within the root protection area in accordance with details submitted within the approved plan ref no 4074 rev D received by the City Council as local planning authority on 9 October 2020 No materials whatsoever shall be stored, rubbish dumped, fires lit or buildings erected within these fences; no changes in ground level shall be made within the spread of any tree, shrub or hedge without the previous written approval of the local planning authority. No trees shall be used as anchorages, nor shall any items whatsoever be affixed to any retained tree. (In the interests of amenity, and in accordance with policy UD06 of the City of Leicester Local Plan and Core Strategy policy CS3.)

13. All vegetation intended for clearance shall be clearly identified on site in accordance with details submitted on plan ref no 4074 rev D received by the City Council as local planning authority on 9 October 2020, before any clearance is begun. (In the interests of amenity, and in accordance with policy UD06 of the City of Leicester Local Plan and Core Strategy policy CS3.)

14. During works of demolition and construction all operations shall only be carried out in accordance with the details shown on plan SK(8)910 received by the City Council as Local Planning Authority on 13 August 2018 under application 20191818 in respect of temporary site entrances, temporary storage areas for soil and other materials, and the placing of plant and site huts. (To ensure the satisfactory development of the site, and in accordance with policy UD06 of the City of Leicester Local Plan and Core Strategy policy CS3.)

15. In the first planting season following the removal of each tree, a replacement tree shall be planted. The replacement tree(s) shall be 2:1 at 14/16 Extra Heavy Standard of the same species unless an alternative scheme has first been submitted to and approved by the City Council as local planning authority. All replacement trees shall be maintained for a minimum period of five years following planting. Any tree that dies, becomes seriously damaged or is removed shall be replaced by another of the same specification at the same place in the first available planting season. (In the interests of the amenity of the area, and in accordance with policy UD06 of the City of Leicester Local Plan and Core Strategy policy CS3.)

16. No part of the development shall be occupied until evidence demonstrating satisfactory operation of the approved Combined Heat and Power based community based heating and hot water system including on-site installation has been submitted to and approved in writing by the City Council. (In the interests of securing energy efficiency in accordance with Policy CS2 of the Core Strategy.)

17. 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 policy CS3.)

18. No part of the development shall be occupied until the arrangements for storage of bins shown on the approved plans AL(9)904 under application 20191818 have been provided. These arrangements shall be maintained thereafter. (In the interests of the amenities of the surrounding area, and in accordance with policy PS10 of the City of Leicester Local Plan and Core Strategy policy CS3.)

19. No part of the development shall be occupied until the Sustainable Drainage System (SuDS) for the site has been completed in accordance with the approved details shown on plan DD150 submitted with application 20191818. The Sustainable Drainage System shall be managed and maintained thereafter in accordance with the approved management and maintenance plan. (To reduce surface water runoff and to secure other related benefits in accordance with policy CS02 of the Core Strategy.)

20. The development shall not be occupied until the 8 bird bricks and 10 bat tubes approved under application 20201503 have been installed under the supervision of an ecologist. The bat tubes and bird boxes shall be retained thereafter. (In the interests of biodiversity and in accordance with policy CS17 of the Leicester Core Strategy.)

21. Before any external lighting is installed a detailed design plan of lighting to be used which shows the locations of lights, their type of light emittance and wavelength, together with a lux contour map showing the variation in light, shall be submitted to and approved in writing by the local planning authority. The lighting shall be designed to cause minimum disturbance to protected species that may inhabit the site with appropriate areas remaining dark and a maximum of 1 lux on vegetated areas where considered necessary. The approved scheme shall be implemented and retained thereafter. No additional lighting shall be installed without prior agreement from the Local Planning Authority. (In the interests of protecting wildlife habitats and in accordance with saved policy BE22 of the City of Leicester Local Plan and policy CS 17 of the Leicester Core Strategy)

22. The use shall not commence until the drainage, and especially foul drainage, has been installed in accordance with the details shown on plan DD150 approved by

the City Council as local planning authority under application 20181828. It shall be retained and maintained thereafter. (To ensure appropriate drainage is installed in accordance with policy CS02 of the Core Strategy

23. The development hereby approved shall be carried out solely in accordance with the following drawings submitted under application 20191818:

AL(1)105 rev A (Roof Plan) received 23 September 2019

AL(1)104 rev A(Attic Plan) received 23 September 2019

AL(1)103 rev A(Second Floor Plan) received 23 September 2019

AL(1)102 rev A (First Floor Plan) received 23 September 2019

AL(1)101 rev A (Ground Floor Plan) received 23 September 2019

AL(1)140 rev A, AL(1)141 rev A and AL(1)142 rev A (Elevations) received 23 September 2019

AL(9)901 rev J (Site Plan) received 23 September 2019

AL(9)902 rev K (Landscaping) received 19 November 2019

and 4074 rev D (Tree Protection Plan submitted with this application and received on 9 October 2020

Unless otherwise submitted to and approved by the City Council as local planning authority. (For the avoidance of doubt.)

NOTES FOR APPLICANT

1. Development on the site shall avoid the bird nesting season (March to September), but if necessary a re-check for nests should be made by an ecologist (or an appointed competent person) not more than 24 hours prior to the commencement of works and evidence provided to the City Council as Local Planning Authority. If any nests or birds in the process of building a nest are found, these areas will be retained (left undisturbed) until the nest is no longer in use and all the young have fledged. An appropriate standoff zone will also be marked out to avoid disturbance whilst the nest is in use. All wild birds are protected under the Wildlife and Countryside Act (1981) as amended making it an offence to kill, injure or disturb a wild bird during the nesting season or to damage or destroy an active nest or eggs during that time.

2. 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 2019 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_BE16	Planning permission will be granted for the development of renewable energy installations where local impacts are not outweighed by wider benefits. Major developments must realise their potential for incorporating renewable energy technologies.
2006_BE20	Developments that are likely to create flood risk onsite or elsewhere will only be permitted if adequate mitigation measures can be implemented.
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_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_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.

Appendix E

Recommendation: Conditional approval	
20201655	1 The Roundway
Proposal:	Installation of 1.8m high fence to side boundary of house (Class C3)
Applicant:	Debbie Abbott
View application and responses:	https://planning.leicester.gov.uk/Planning/Display/20201655
Expiry Date:	27 October 2020
RB	WARD: Troon



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Summary

- The application is brought to committee due to the number of objections.
- 5 objections and 1 letter of objection, containing 15 signatures, relating mostly to issues around land and access disputes regarding land outside the site.
- The main issues in this case are appearance of the site and highway sight lines.
- The application is recommended for approval subject to conditions.

The Site

The application site is a semi-detached house located on a prominent corner plot on the junction of The Roundway and Stancliffe Road. The front of the property faces The Roundway and the side is on Stancliffe Road. The garage to the house is accessed from The Roundway.

Background

20200832 A similar application for a side and front fence was refused earlier because of its potential impact upon the character and appearance of the site and the street scene.

20171182 Outline planning permission was granted for a single storey bungalow at the rear of the garden of 1 The Roundway with all matters reserved except for access, which is from Stancliffe Road.

20190957 Reserved Matters Approval was granted for details of layout, scale, appearance and landscaping for the bungalow.

The Proposal

The proposal relates to construct a timber fence with posts to a height of 1.8m, to the front and side boundary, including a kick board at the bottom of the fence. The fence would be approximately 40m in length and set back 1m from the highway with landscaping proposed in front.

The proposed plans would replace/reposition a two metre fence installed at the back of the footway without consent

Policy Considerations

National Planning Policy Framework (NPPF)

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

Paragraph 127 sets out criteria for assessing planning applications which includes issues such as the long term functionality of development proposals; visual impacts; the ability of development to relate to local character; creation of a sense of place using various design tools such as building types and materials; optimising the potential of development sites; and, designing safe, secure and inclusive developments with a high standard of amenity for existing and future users.

Paragraph 163 of the NPPF advises that when determining planning applications local planning authorities should, inter alia, give priority to sustainable drainage systems unless there is clear evidence that this would be inappropriate.

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

Representations

5 objections and 1 letter of objection, containing 15 signatures have been submitted in connection with this application. The objections appear to relate to issues around land and access disputes regarding land outside the site rather than the fence proposed in this application.

The objectors refer to the development of the bungalow to the south of the application site. They allege that land has been used and access to a private drive (further to the south) impeded contrary to land and access rights. These are matters not directly relevant to consideration of this application and I am satisfied that this application has been submitted lawfully.

Consideration

Character and Appearance

Policy CS03 of the Leicester Core Strategy (2014) states that high quality, well designed developments that contribute positively to the character and appearance of the local built environment are expected. Saved Policy PS10 of the Local Plan (2006) sets out a number of amenity factors to be taken into account when determining planning applications including the visual quality of the area and the ability of the area to assimilate development.

The application site is situated in a predominantly residential area on the corner of The Roundway and Stancliffe Road. The top of Stancliffe Road comprises of largely high fencing to the rear and sides of properties that abuts the highway. This is broken up by the occasional driveway or garage. The lack of frontages along the Road, combined with the length of the fences contribute to an enclosed appearance.

The site is in a prominent location within the street scene and the proposal would be highly visible from the public realm. I consider that without relief, the lack of frontages along the top of Stancliffe Road and the length and height of the existing fences, the approximately 38m fence would contribute to the enclosed appearance of the street scene. However, due to the proposed setback of the fence from Stancliffe Road by 1m and provision of landscaping in front of the fence, I consider that it would soften the impact and would represent an acceptable addition to the street scene.

The proposal would be in accordance with Core Strategy Policy CS03 and would not conflict with saved Local Plan Policy PS10.

Parking and Access

The parking for the proposed bungalow to the south of the site would remain unaltered and the provision of splay lines in the amended plan would ensure visibility when exiting on to Stancliffe Road.

Conclusion

The proposed development would retain the character and appearance of the site and local area and result in minimal visual intrusion. It would provide adequate sight lines for the adjacent access.

I recommend APPROVAL 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. This consent shall relate solely to the submitted plans ref. no. 20024-02 received by the City Council as local planning authority on 01/09/2020, unless otherwise submitted to and approved by the City Council as local planning authority. (For the avoidance of doubt.)

NOTES FOR APPLICANT

1. This consent relates to the amended plans only and is to be taken as a stand alone permission. The current location of the fence is considered an unauthorised development and the fence must be altered and re-positioned within the next 3 months otherwise enforcement action may be taken without further warning.

2. 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).

Policies relating to this recommendation

2006_PS10 Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.

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'.