

Leicester  
City Council

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

**DATE: WEDNESDAY, 31 JULY 2019**

**TIME: 5:30 pm**

**PLACE: Meeting Rooms G.01 and G.02, Ground Floor, City Hall, 115  
Charles Street, Leicester, LE1 1FZ**

**Members of the Committee**

Councillor Riyait (Chair)

Councillor Aldred (Vice-Chair)

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

One unallocated Non-Grouped 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:**

**Julie Harget, tel: 0116 454 6357 / Elaine Baker, tel: 0116 454 6355**

**e-mail: [julie.harget@leicester.gov.uk](mailto:julie.harget@leicester.gov.uk) / [elaine.baker@leicester.gov.uk](mailto:elaine.baker@leicester.gov.uk)**

**Democratic Support, Leicester City Council, City Hall, 115 Charles Street, Leicester, LE1 1FZ**

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

**Julie Harget, tel: 0116 454 6357 or Elaine Baker, tel: 0116 454 6355, Democratic Support Officers.** Alternatively, email [julie.harget@leicester.gov.uk](mailto:julie.harget@leicester.gov.uk) / [elaine.baker@leicester.gov.uk](mailto:elaine.baker@leicester.gov.uk), or call in at City Hall.

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## **PUBLIC SESSION**

### **AGENDA**

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- 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**

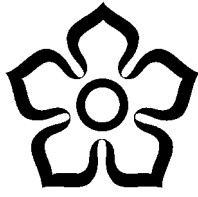
Members are asked to confirm that the minutes of the meeting of the Planning and Development Control Committee held 19 June 2019 are a correct record.

### **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 to the reports.

- (i) 20190066 ROSSHILL CRESCENT, LAND OFF [A1](#)**
- (ii) 20190079 8-10 KING STREET [A2](#)**
- (iii) 20190086 22 SOUTH KNIGHTON ROAD, [A3](#)  
ULVERSCROFT, LAND ADJACENT**
- (iv) 20190200 1 RUFFORD STREET [A4](#)**
- (v) 20190383 7 BRAUNSTONE AVENUE, LAND [A5](#)  
R.O.**
- (vi) 20190692 16 THURMASTON LANE [A6](#)**
- (vii) 20190693 16 THURMASTON LANE [A7](#)**
- (viii) 20188034A 2-4 HUMBERSTONE GATE & 1-3 [A8](#)  
HAYMARKET**
- (ix) 20198004A 43 BELVOIR STREET [A9](#)**
- (x) 20198007A 10 FRIAR LANE, FERNANDEZ [A10](#)  
GRILLHOUSE AND 1 BERRIDGE STREET**
- (xi) 20198014A 42 GUTHRIDGE CRESCENT [A11](#)**
- (xii) 20198015A 9 LAMBORNE ROAD [A12](#)**

### **5. ANY URGENT BUSINESS**



Leicester  
City Council

**Wards:  
See individual reports.**

**Planning & Development Control Committee    Date: 31<sup>st</sup> July 2019**

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## **REPORTS ON APPLICATIONS, CONTRAVENTIONS AND APPEALS**

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### **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-screen in the Customer Service Centre, Granby Street, and on line at [www.leicester.gov.uk/planning](http://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).

### INDEX APPLICATION ORDER

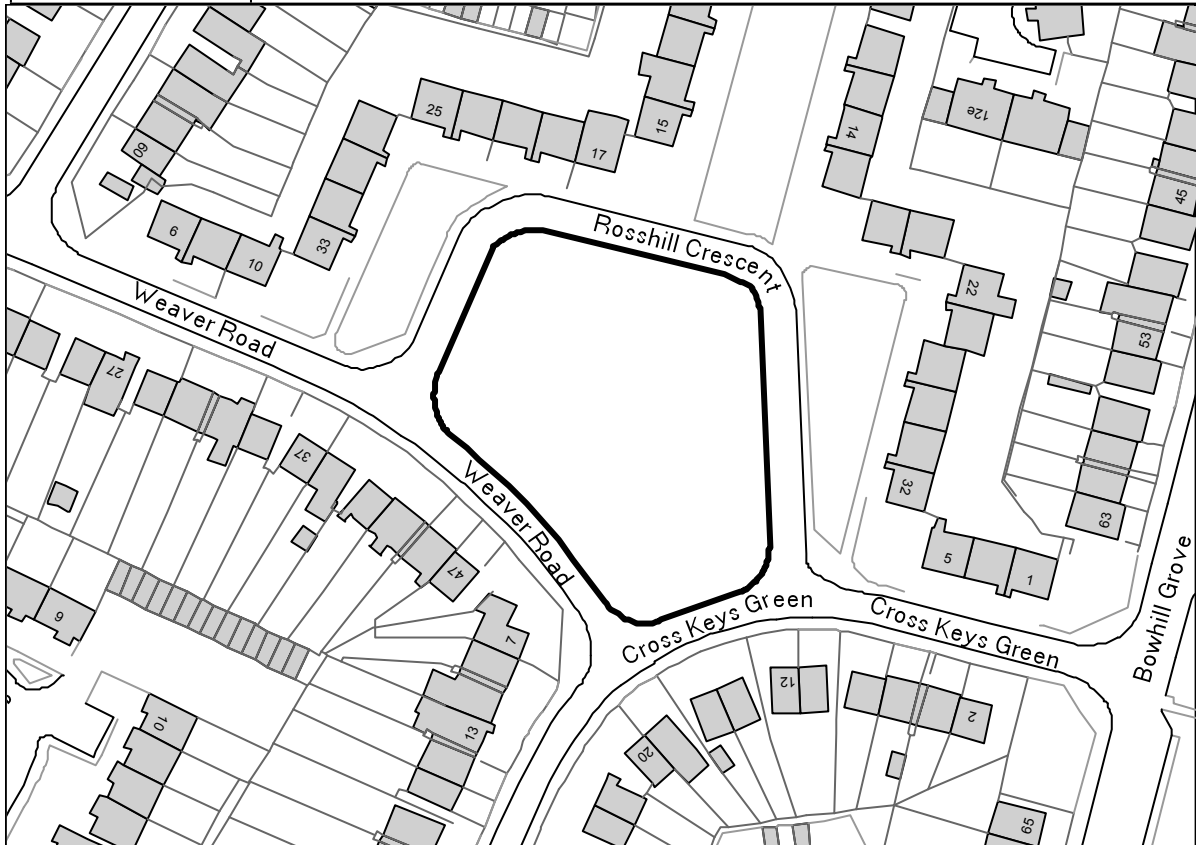
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# Appendix A1

Planning & Development Control Committee Date 31<sup>st</sup> July 2019

<b>Recommendation: Conditional approval</b>	
<b>20190066</b>	<b>ROSSHILL CRESCENT, LAND OFF</b>
Proposal:	CONSTRUCTION OF FIVE BUNGALOWS (5 X 1 BED) AND CANOPY (CLASS C3); INSTALLATION OF HARD STANDING AND 1.8M HIGH FENCES AND WALLS; ALTERATIONS (AMENDED PLANS RECD 14/06/19, 20/06/19 AND 21/06/19)
Applicant:	LEICESTER CITY COUNCIL
View application and responses	<a href="http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190066">http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190066</a>
Expiry Date:	2 August 2019
TB	WARD: Thurncourt



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## Summary

- Brought to Committee due to the number of objections received.
- 10 objections were received concerning the principle of the development (loss of open space/landscaped area, concern for future resident mix, other better alternative sites and strain on local facilities/infrastructure), parking/highways, design, pollution, trees, nature, drainage, disruption during construction and lack of consultation on the proposal.

- The main considerations are the principle of the development, design and highways.
- The application is recommended for conditional approval.

### **The Site**

The application relates to a grassed area within a Primarily Residential Area. To the north and west of the site are terraced bungalows; whilst to the south of the site are terraced and semi-detached houses. The land slopes down from the northern boundary adjacent to Rosshill Crescent to the southern boundary adjacent to Weaver Road and Cross Keys Green.

### **The Proposal**

The application proposes bungalows for council housing, with associated parking and amenity spaces. 1.8m high close board timber fencing with concrete posts will divide the boundaries between the bungalows, whilst 1.8m high brick walls will face the boundaries of the site. Lockable gates will be provided to give access to the rear gardens. General landscaping is also proposed. One house- house type 6 on plot 5 to the north east of the site- is proposed with a larger floor area for wheelchair user access. This bungalow will also have canopy to the side and front to provide a covered driveway. One off-street vehicle parking space is proposed per bungalow.

The plans have been amended so that: -

- The block paving currently used as a run-over for the highway will be retained and distinct from the proposed footpath/grass verges,
- Grass verges have replaced footpaths in some sections of the perimeter,
- The width of the vehicle parking spaces has been increased to at least 2.9m,
- 2m by 2m visibility splays have been created between the vehicle accesses and footpaths,
- 0.9m high open board timber fencing has replaced 0.9m high close board timber fencing to the front and side of the proposed dwellings,
- The location of the proposed trees has been amended,
- The roof and cladding have been amended from darker to lighter materials,
- The internal layout of house type 5 has been amended;
- Waste storage areas have been shown on the plans to the rear gardens.

A Drainage Strategy, Design and Access Statement and a Floor Space Schedule have also been submitted with the application.

### **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.

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 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 any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the NPPF taken as a whole. Leicester city Council does not currently have a 5 year housing land supply therefore the policies relating to housing are out of date.

Paragraphs 59 to 79 sets out the housing policies of the NPPF. Paragraph 59 places an emphasis on the importance of a sufficient amount and variety of land to come forward where it is needed and that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. Paragraph 68 states that small and medium sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. The policy goes stating that local authorities are required to support the development of windfall sites through decisions- giving great weight to the benefits of using sustainable sites within existing settlements for homes.

In making an assessment, 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 degree.

Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 110 requires applications for development to give priority to pedestrians and cycle movements; address the needs of people with disabilities and reduced mobility; create place that are safe, secure and attractive; allow for the efficient delivery of goods and; be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

Paragraph 117 requires planning policies and decisions to promote the effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 118 requires that planning decisions should:

- a) Encourage multiple benefits from urban land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation;
- b) Recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production;
- c) Give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;
- d) Promote and support the development of under-utilised land, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.

Paragraph 122 places an emphasis on local planning authorities to support development that makes efficient use of land. It requires decision makers to take into account issues such as the need for different types of housing, including the availability of land suitable for accommodating; local market conditions and viability; the availability and capacity of infrastructure and services, including the potential for further improvement; the desirability of maintaining an area's prevailing character and setting (including residential gardens) and; the importance of securing well-designed, attractive and healthy places.

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

Part 12 of the NPPF focuses on requiring good design. Paragraph 124 describes good design as a key aspect of sustainable development.

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 170 encourages planning policies and decision to contribute to and enhance the natural environment.

Paragraph 180 requires decision makers to ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

#### Development Plan policies

Development plan policies relevant to this application are listed at the end of this report. Supplementary Planning Documents (SPD)

*Residential Amenity SPD (2008)*

#### Other legal or policy context

*Leicester & Leicestershire Housing and Economic Development Needs Assessment – Executive Summary (2017)*

*The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO)*

*Appendix 01 Parking Standards of The City of Leicester Local Plan (2006)*

*Statement of Community Involvement (2014)*

#### **Consultations**

Traffic and Travel Planning – The principle of the development is acceptable and the proposed car parking provision is at an appropriate level. Conditions are suggested should the proposal be amended to retain the overrun, to widen the car parking spaces and to show suitable pedestrian visibility splays.

Drainage (Severn Trent) – The development should not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in

accordance with the approved details before the development is first brought into use. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered.

Lead Local flood Authority (LLFA) – No objection, as long as remaining requirements are satisfied through use of the suggested conditions for Sustainable Urban Drainage Systems (SuDS) and drainage.

Waste Management – The development is expected to include purpose built space for the storage of waste that has a suitable impermeable hardstanding and is no more than 20m from the bin storage area and the road collection point. As these properties are bungalows, it can be assumed that there may be assisted collections due to special needs, so it would be preferable for the storage to be at the front of the property. Management issues were raised that should be addressed regarding the ongoing management of the site.

## **Representations**

Ten objections have been received concerning the following: -

- Existing parking issues due to limited availability and high demand, creating constrained access for emergency and servicing vehicles due to the limited road width. The proposal, with resident and visitor parking, will worsen the existing congestion, blocking of driveways and highways safety risks.
- The two on-site vehicle parking spaces standard for the new bungalows will not be met as there is only one on-site vehicle parking spaces proposed per bungalow. There is no room to park cars outside the proposed bungalows on the road.
- If the safety block paving around Rosshill Crescent is taken away, access to emergency and delivery services will result in highways safety risk, as well as a loss of resident parking.
- It would be better to turn the site into a parking bay.
- The proposed pathway goes nowhere and would likely not be used.
- There would be an increase in air and noise pollution.
- The Council does not maintain trees. The use of trees in the plans serves no useful purpose. The over-use of trees in the proposal will worsen existing issues with leaves and light blocking.
- The majority of the existing residents in the area are elderly, and so it is suggested that adding a more diverse population would be more beneficial.
- Local infrastructure and facilities are already under strain, such as schools and medical services.

- Other large(r) brownfield sites in the surrounding area, including those that are run down, attract anti-social behaviour and are not maintained such as Land & Garages Rear of 6-48 Cross Keys Green and Land & Garages Rear of 34-46 St Austell Road, should have been prioritised as potential development sites rather than using the small and much needed green amenity spaces currently available. Don't want anything built on the site.
- The amenity grassland fronting Homestead Gardens has existing trees that would fit in with a new build, as an alternative larger site.
- The proposal will remove a play area for children in the area, on a site that is safe and benefits from good natural surveillance. It is also an area that elderly people can use to meet, exercise and walk pets, and also provides a short cut. The green space on Thurncourt Road would not provide an alternative as it's not safe for children and suffers from anti-social behaviour.
- Landscaped areas are decreasing in the suburbs, yet people rely on them for their health and mental-wellbeing.
- When the original plans were passed for this area the site was designated as an open amenity space not for development, and so it is not right that the Council can develop the space by reversing a previous decision.
- Suggestion that the community open spaces and the aesthetics of the area are now less important than when the surrounding houses were granted planning permission.
- The proposal would spoil the aesthetic of the area and the nature in it.
- The design of the buildings is not in-keeping with others in the immediate area/facing and would look out of place, including the use of grey windows and metal railings. The brick walls will shut down access to the green space.
- Blocked views and reduced natural surveillance.
- Existing issues with water running from the site down driveways on Weaver Road.
- Accusation that the Drainage Strategy Report on the boreholes contains missing information that has been deliberately removed. The borehole nearest Weaver Road contained lots of water that was removed based on eye witness accounts. No notice was given of the testing.
- Disruption whilst the bungalows are being built.
- Lack of consultation on the proposal, with no local meetings.

Other comments were made from an objector stating interest in how the Council would spend any section 106 monies that the development will bring. There was acknowledgement that there is a need for housing for disabled people. Another objection stated that in close proximity to the site is young family housing and bungalows for the elderly, and so the Council should carefully consider what residents are housed on the site.

## Consideration

### Principle of development

The site is not designated green space or open space and is within a Primarily Residential Area. Core Strategy policy CS06 *Housing Strategy* states that the “*housing requirements of the Regional Spatial Strategy can be met through... limited housing growth within established residential areas and small housing infill... to support the development of sustainable communities*”. It also goes on to propose the following measures to ensure that new housing meets the needs of City residents: -

- that the “*City Council will continue to work with its partners to ensure the delivery of sustainable communities to meet both current and future needs of the population as identified by the Strategic Housing Market Assessment*” (SHMA),
- that new “*housing developments will be required to provide an appropriate mix of housing types, sizes and tenures to meet the needs of existing and future households in the City... as identified by the SHMA*”, and
- that “*the City Council will seek to meet the needs of specific groups through:... Ensuring that an appropriate proportion of new housing units are designed to meet wheelchair access standards*”.

The Leicester and Leicestershire Housing & Economic Development Needs Assessment (2017) (HEDNA) estimates the total wheelchair adapted need of 4,322 homes (2011-36) in the Housing Market Area. The proposed house type 6 would help meet this need. In addition the HEDNA identifies a need for specialist housing for the elderly. The proposal does not provide specialist housing. However the HEDNA goes on to identify “*there may for example be an option to substitute some of this specialist provision with a mix of one and two bedroom housing aimed to attract ‘early retired’ older people which could be designated as age specific or not... Our experience when carrying out stakeholder work as part of other similar commissions typically identifies a demand for bungalows (and/or less typically step free homes). Where developments including bungalows are found, it is clear that these are very popular to older people downsizing.*”

Core Strategy policy CS08 (Outer Estate Areas) states that limited “*residential infilling in Outer Estate Areas can play an important role in the provision of new housing in the City, particularly on lower density estates where more opportunities exist.*”

The proposal is therefore acceptable in principle as it provides housing on a suitable small site within an existing residential area. It provides a wheelchair adapted home, as well as suitable substitutes for specialist housing for the elderly, for which there is an identified need.

### Design

The proposed dwellings would relate well to the simple form of brick with pitched roofs of the surrounding area, whilst also creating a contemporary appearance with the



cladding. The amended roof and cladding materials also relate well to the surrounding area, with natural timber finish cladding and lighter shaded tiles. The contrast of the grey windows with the white windows of the nearby buildings is not considered to cause a significant impact to visual amenity, and design proposals for authentic contemporary housing should not be expected to replicate exactly the nearby buildings that were granted planning permission in the 1950s and 1960s. A sample of the brick proposed has been provided, and is considered to be in-keeping with the surrounding houses.

The site is located within the 'Outer Area' of the *Residential Amenity* SPD. Whilst the proposal is a relatively low density for a greenfield site, the lower density helps to maintain the open character of the surrounding area, as well as providing better living conditions and needed bungalow housing. The proposal maintains the visual link between Bowhill Grove and Nursery Road.

The open-board fencing will be in-keeping with the open character and appearance of the surrounding area, and will allow any planting the people may wish to undertake to be viewed and part of the street. The low level open board fencing to the front and side of the properties will also allow for on-street surveillance for safety and security. The higher fencing and walls will ensure that the amenity spaces for the proposed dwellings are private. These fences and walls are considered to be of an appropriate height and design. The walls will have matching bricks to the exterior of the proposed houses.

I conclude that the proposal would comply with policy CS03 of the Core Strategy (2014), would not conflict with saved policy PS10 of the Local Plan (2006) and is acceptable in terms of the character and appearance of the area.

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

The floor spaces proposed (51 square metres for four of the houses and 61 square metres for one of the houses) are of a good size. The private amenity spaces provided (ranging from 107 square metres to 157 square metres) exceeds the standards of Appendix E of the Residential Amenity SPD. House type 6 has a larger floor area to allow for wheelchair turning, which have been shown on the floor plans. As confirmed by the Design and Access Statement, The houses have been designed in accordance with the requirements of Building Regulations Optional Requirement M4(2) for Accessible and adaptable dwellings. I recommend a pre-occupation condition to this effect.

There will be wall mounted lighting by the front and rear doors of each of the houses. The area will also be illuminated from street lighting that surrounds the site for safety and security. Entrances to the front of the houses will provide better safety and security for future residents.

I consider that the proposed living conditions are acceptable with regards to privacy and outlook. The rear principal room windows will not directly face each other. 1.8m high fences will also screen potential overlooking between the proposed dwellings. I therefore consider the proposal to be acceptable with regards to living conditions.

#### Residential amenity (*outside the site*)

Whilst there may be some detriment to light, outlook and privacy, it would not be so significant so as to justify refusal. The trees and the low height bungalows proposed will be set back from neighbouring properties by the widened highway, front gardens and the existing landscaped areas. The windows to the front and sides will increase on-street surveillance.

I conclude that the proposal would comply with policy CS03 of the Core Strategy (2014) and would not conflict with saved policy PS10 of the Local Plan (2006), and is acceptable in terms of the privacy and amenity of the neighbouring occupiers.

#### Waste storage and collection

The purposes built waste storage areas will be located within 20m of the road collection points. The impermeable hardstanding of the waste storage areas can be secured by the recommended landscaping condition.

#### Highways and Parking

The amended plans will retain the block paving that forms an overrun for vehicular access (including emergency vehicles), with the proposed footpaths located to the back of the overrun. This will ensure no reduction in the availability of on-street vehicle parking space. The proposal meets the vehicle parking standard of *Appendix 01 Parking Standards*. The site is located in close proximity to bus links on both Bowhill Grove and Nursery Road.

To prevent a hard-surface dominated environment, footpaths are only proposed where necessary, rather than surrounding the whole perimeter of the site. A 2m grass verge will be retained to the perimeter, to allow for further footpath provision in the future if required. The amended visibility splays are satisfactory. I recommend conditions to ensure that the proposal will be satisfactory with regards to highways and parking.

I conclude that the proposal would comply with policy CS15 of the Core Strategy (2014) and with saved policy AM12 of the Local Plan (2006), and is acceptable in terms of highways and parking.

#### Drainage

The development is located with Flood Zone 1 and does not reside within a flooding Hotspot or a Critical Drainage Area, subsequently is considered at low risk from fluvial and surface water flooding.

Surface water would be managed via a combination of Sustainable Drainage Systems (SuDS), prior to controlled discharge into the public sewer. A ground investigation has been completed, which determined discharge of surface water via infiltration is unfeasible and discharge into the surface water sewer is the only viable solution. Details regarding attenuation, maintenance and design remain outstanding and so I recommend a condition for SuDS and drainage to ensure that the development is provided with a satisfactory means of drainage; to reduce discharge into the public drainage system, limit surface water volumes and discharge rates, reduce overall risk

from surface water flooding, make sufficient allowances for climate change and minimise the risk of pollution.

With reference to the objection regarding the Drainage Strategy Report, there is nothing to suggest that the usual ground investigation/infiltration testing procedure was not followed nor from the information provided within the drainage strategy report to suggest that information has been deliberately removed.

I conclude that the proposal would not conflict with Policy CS02 of the Core Strategy (2014) and is acceptable in terms of sustainable drainage, subject to the recommended conditions.

#### Nature conservation/Trees/landscaping

There will be minimal loss of biodiversity as a result of the development. The proposal of trees and low level shrubs/planting to landscape the site would have a positive impact on biodiversity and the visual amenity of the surrounding area. The location of the trees has been amended so that they would be more visible to the public realm, and would allow for more open area within the proposed rear gardens. I recommend a landscaping condition to ensure that the trees, shrubs and planting will be locally native species, as well as larger species to have greater positive impact for visual amenity and biodiversity. The recommended landscaping condition also includes requirement for details of nest boxes for small birds within the rear gardens to ensure a net gain in biodiversity as a result of the proposal in accordance with NPPF paragraph 170.

The proposed footway will only be installed where required to prevent a hard-surface dominated environment and to increase the area of the grass verge. The hard surfacing around the bungalows is required for access and maintenance. The proposed path within the landscaped area serves to provide a shorter eastern route from the north to the south of the site and vice versa.

I conclude that the proposal would comply with Core Strategy policy CS17 *Biodiversity* and saved policy UD06 *Landscape Design* of The City of Leicester Local Plan (2006), subject to the recommended conditions.

#### Other matters

Regarding the objection of disruption during construction works, given the relatively modest scale of the proposed development and the relatively unconstrained access to the site, I do not consider that disruption impacts during construction are likely to be so significant as to warrant control through the planning process.

#### Conclusion

The proposal will contribute to meeting housing need and is acceptable in principle. The proposal is acceptable with regards to design, residential amenity, living conditions, highways/parking, nature/trees, waste storage/collection and drainage; in accordance with planning policies and subject to the recommended conditions.

I therefore recommend that this application is APPROVED subject to 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. Before the development authorised by this permission is begun, a detailed landscaping scheme showing the treatment of all parts of the site which will remain unbuilt upon shall be submitted to and approved by the City Council as local planning authority. This scheme shall include details of: (i) new tree and shrub planting, including plant type, size, quantities and locations; (ii) means of planting, staking, and tying of trees, including tree guards; (iii) other surface treatments; (iv) fencing and boundary treatments; (v) any changes in levels; (vi) the position and depth of service and/or drainage runs (which may affect tree roots); (vii) nest boxes for small birds within the rear gardens. 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. To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).
3. Prior to the commencement of development full details of the Sustainable Drainage System (SuDS) together with implementation, long term maintenance and management of the system shall be submitted to and approved by the local planning authority. No property shall be occupied until the system has been implemented in full. It shall thereafter be managed and maintained in accordance with the approved details. Those details shall include: (i) full design details, (ii) a timetable for its implementation, and (iii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the system throughout its lifetime. (To reduce surface water runoff and to secure other related benefits in accordance with policy CS02 of the Core Strategy. To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).
4. Prior to the commencement of development details of drainage, and especially foul drainage, shall be submitted to and approved by the local planning authority. No property shall be occupied until the drainage has been installed in full in accordance with the approved details. It shall be retained and maintained thereafter. (To ensure appropriate drainage is installed in accordance with policy CS02 of the Core Strategy. To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).

5. Prior to the commencement of development details of all street works; including the provision of dropped kerbs and ramps suitable for wheelchairs and prams at all major pedestrian crossing points, road junctions and footway crossings, the provision of the new footway and new highway verge and the provision of new footway crossings; shall be submitted to and approved in writing by the City Council as local planning authority. Prior to occupation of the dwellings all street works must be implemented in accordance with the approved details. (To achieve a satisfactory form of development and for the safety and convenience of pedestrians including disabled people and pram and wheelchair users, and in accordance with policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS3.)
6. The dwellings and their associated parking and approach shall be constructed in accordance with 'Category 2: Accessible and adaptable dwellings M4 (2) Optional Requirement'. On completion of the scheme and prior to the occupation of the dwellings a completion certificate signed by the relevant inspecting Building Control Body shall be submitted to the City Council as local planning authority certifying compliance with the above standard. (To ensure the dwellings are adaptable enough to match lifetime's changing needs in accordance with Policies CS03 and CS06 of the Leicester Core Strategy (2014)).
7. 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.)
8. Prior to first occupation of any dwelling, the proposed vehicular access shown on the amended plans shall be provided and surfaced in a hard bound material for a minimum distance of 5 metres behind the back edge of the footway and shall be positively drained so as to prevent surface water running from the site and into the highway, and shall thereafter be permanently so maintained.
9. This consent shall relate solely to the amended plans ref. no. 10 Rev G, 11 Rev G, 13 Rev E, 30 Rev C and External Finishes Schedule and Other External Materials received by the City Council as local planning authority on 21/06/19; the amended plan ref no. 14 Rev C received by the City Council as local planning authority on 20/06/19; the amended plan ref no. 20 Rev B House Type - 5 received by the City Council as local planning authority on 14/06/19 and the submitted plans ref no. 20 Rev A House Type - 6 and 21 Rev A received by the City Council as local planning authority on 11/01/19. (For the avoidance of doubt.)

#### NOTES FOR APPLICANT

1. Regarding condition 2, the trees, shrubs and planting should be locally native species.

2. Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection by virtue of the Water Industry Act 1991 as amended by the Water Act 2003 and you may not build close to, directly over or divert a public sewer without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you in obtaining a solution which protects both the public sewer and the proposed development. They may obtain copies of our current guidance notes and application form from either our website ([www.stwater.co.uk](http://www.stwater.co.uk)) or by contacting our Asset Protection Build Team (Tel: 024 7771 6843 / email: [net.dev.east@severntrent.co.uk](mailto:net.dev.east@severntrent.co.uk)).
3. The Highway Authority's permission is required under the Highways Act 1980 and the New Roads and Street Works Act 1991 for all works on or in the highway. For new road construction or alterations to existing highway the developer must enter into an Agreement with the Highway Authority. For more information please contact [highway.management@leicester.gov.uk](mailto:highway.management@leicester.gov.uk)
4. 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 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_AM12 | Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01.  |
| 2006_PS10 | Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.   |
| 2006_PS11 | Control over proposals which have the potential to pollute, and over proposals which are sensitive to pollution near existing polluting uses; support for alternative fuels etc.   |
| 2006_UD06 | New development should not impinge upon landscape features that have amenity value whether they are within or outside the site unless it can meet criteria.  |
| 2014_CS02 | Development must mitigate and adapt to climate change and reduce greenhouse gas emissions. The policy sets out principles which provide the climate change policy context for the City.  |
| 2014_CS03 | The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, |

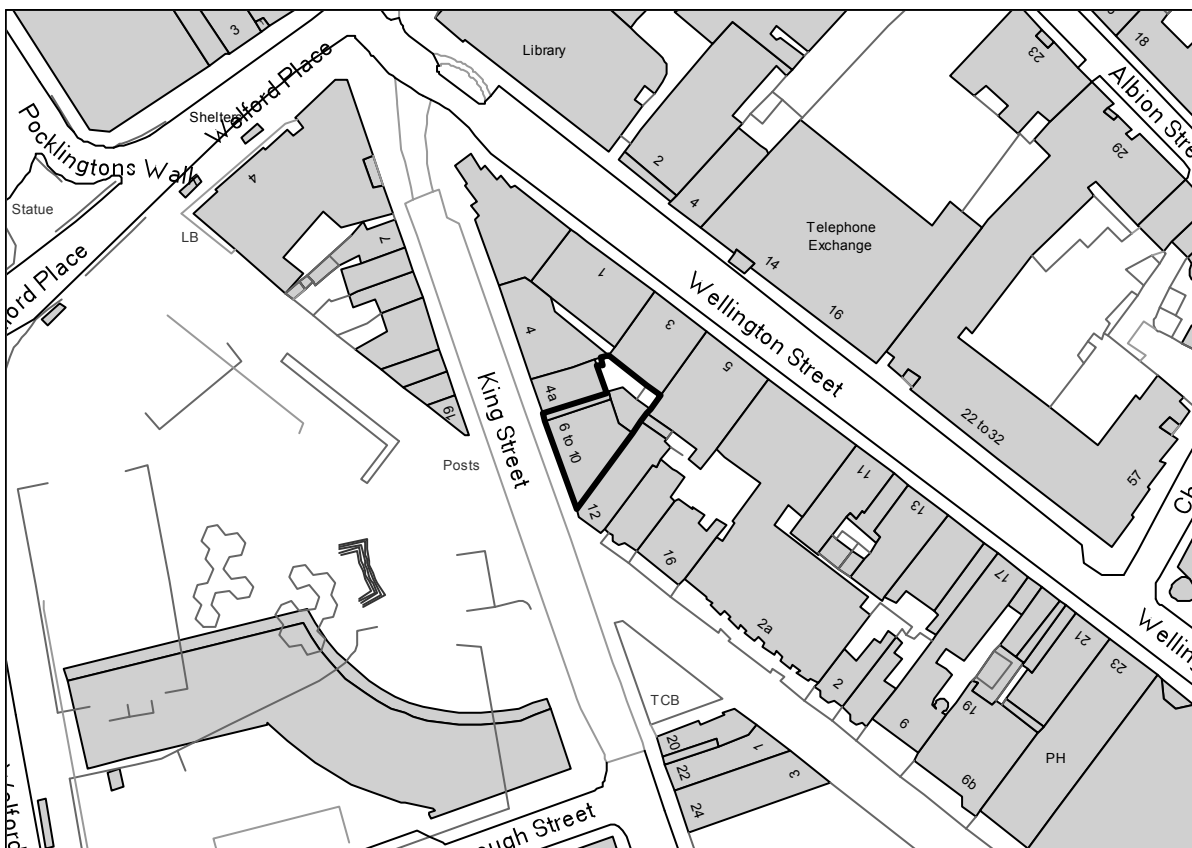
- connections and access, public spaces, the historic environment, and 'Building for Life'.
- 2014\_CS06 The policy sets out measures to ensure that the overall housing requirements for the City can be met; and to ensure that new housing meets the needs of City residents.
- 2014\_CS08 Neighbourhoods 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\_CS15 To meet the key aim of reducing Leicester's contribution to climate change, the policy sets out measures to help manage congestion on the City roads.
- 2014\_CS17 The policy sets out measures to require new development to maintain, enhance and strengthen connections for wildlife, both within and beyond the identified biodiversity network.





# Appendix A2

<b>Recommendation: Conditional approval</b>	
<b>20190079</b>	<b>8-10 KING STREET</b>
Proposal:	CHANGE OF USE OF BASEMENT AND GROUND FLOOR FROM RESTAURANT (CLASS A3) TO BASEMENT NIGHT CLUB AND GROUND FLOOR BAR/RESTAURANT/HOT FOOD TAKEAWAY (SUI GENERIS); INSTALLATION OF SHOPFRONT, DOOR AND CANOPIES TO FRONT AND VENTILATION FLUE AT REAR; ALTERATIONS (AMENDED PLANS RECD 17/07/19)
Applicant:	MR KUMAR
View application and responses	<a href="http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190079">http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190079</a>
Expiry Date:	1 August 2019
TB	WARD: Castle



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## Summary

- Brought to Committee due to the number of objections.
- 12 objections were received concerning the character and appearance of the surrounding area, residential amenity, pollution and the inappropriateness of the location of the proposal.

- The main considerations are the principle of the development, design and residential amenity.
- The application is recommended for conditional approval.

## **The Site**

The application relates to a restaurant on the basement and ground floor of a four storey building. The first floor is in use as an office, whilst the upper floors are in use as flats. The site is located within the New Walk Conservation Area immediately adjacent to the historic park and garden of New Walk and in close proximity to a number of nationally listed buildings. The site is also located within the Central Commercial Zone, a Strategic Regeneration Area and a Primarily Office Area, as well as an IPC Premise and Buffer.

## **Background**

Planning permission was granted in 1989 for change of use of the basement from retail (Class A1) to a restaurant (Class A3) (ref no. 19890886). Further planning permission was granted in 1992 for change of use of the ground floor from a shop (Class A1) to a restaurant (Class A3) (ref no. 19920435). No hours of use or noise insulation conditions were attached. Ventilation details were conditioned; however there is no ventilation flue present to the existing building. The restaurant use was implemented.

Conditional approval was also granted for a new shopfront in 1992, under app ref no. 19920642.

Whilst no planning permission was granted for the change of use of the ground floor to a night club, mapping images indicate that there has been a nightclub with a similar shopfront on the site since at least August 2010 and licensing records indicate that the site has been used as a nightclub since 2005.

There is an accompanying advertisement application ref no. 20190712 that is being determined separately.

## **The Proposal**

The proposal is to change the use of 8-10 King Street from a restaurant to nightclub in the basement (sui generis) and bar/ restaurant/ hot food takeaway on the ground floor (Class A3/ A4/ A5). A Design and Access Statement and a Noise Impact Assessment for the proposed ventilation flue have been submitted with the application.

The plans have been amended with the following: -

- The amount of glazing and stall risers have been increased to the proposed shopfront so as to reduce the amount of blank panelling and create a more integrated design.
- The design of the door with fanlight has been amended to better integrate with the proposed and existing shopfront.

- The existing fan lights and moulding above the shopfront windows are will be retained and not affected by the proposed canopy.
- The shopfront will be timber framed rather than aluminium.
- The ventilation flue will be clad in brick slips to match with the existing building façade and with access for maintenance.
- Level access will be created via the new entrance.
- The minimum height from ground to base of the canopies has been amended to 2.5 metres to prevent highways safety risk.
- A waste storage area has been shown on the plans within the rear courtyard (as existing).

## **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.

Paragraph 80 requires significant weight to be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Paragraph 86 advises that main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

Paragraph 92 states to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments.

In making an assessment 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.

Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Paragraph 110 requires applications for development to give priority to pedestrians and cycle movements; address the needs of people with disabilities and reduced

mobility; create places that are safe, secure and attractive; allow for the efficient delivery of goods and; be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

Paragraph 118 sets out criteria on land use flexibility. It requires planning policies and decisions to place substantial weight on the use of under-utilised land and buildings whilst also using sites more effectively.

Part 12 of the NPPF focuses on requiring good design. Paragraph 124 describes good design as a key aspect of sustainable development.

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<sup>46</sup>; 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. It further requires local planning authorities to seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).

Paragraph 180 requires decision makers to ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

Paragraph 182 requires planning policies and decisions to ensure that new development can be integrated effectively with existing businesses and community

facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

Paragraph 183 encourages planning decisions to focus on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

Paragraph 191 – where there is evidence of deliberate neglect or damage to a heritage asset, the deteriorated state should not be taken into account in any decision

Paragraph 192 – desirability to sustain & enhance significance of Heritage Assets

Paragraph 193 – great weight should be given to asset's conservation

Paragraph 197 – effect of application on significance of non-designated Heritage Asset

Paragraph 200 – LPAs should look for new development to preserve or enhance significance of Heritage Assets

#### Development plan policies

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

#### Supplementary planning documents

Residential Amenity SPD (2008)

#### Other legal or policy context

Appendix 01 Parking Standards – City of Leicester Local Plan (2006)

New Walk Conservation Area Character Appraisal (2015)

### **Consultations**

Pollution (Noise-Premise-Light): An assessment of ambient noise during the day with regards to the kitchen extraction system has been undertaken. It compares ambient noise, including noise from other existing premises on adjoining properties and other premises in the area. However, the assessment has not taken into account night time/early morning noise levels, when other systems are not working. The application does not make reference to proposed hours of use, however recent newspaper reports suggest that the intention is to operate the premises 24 hours daily. There are a number of flats that directly overlook the rear yard of the property (stated to be within 8m in the noise impact assessment). Whilst the assessment has recommended a number of issues that should be addressed, there is insufficient data/information supplied with the assessment/application with respect to noise from the extraction system over a 24 hour period.

There is concern about the use of the premises, including as a drinking establishment and late night entertainment premises, 24 hours daily with regards to music break out and on-street activity (customers entering/exiting and smoking) outside of the premises; particularly late at night and into the early hours of the morning seven days a week.

As such, the Pollution Control Officer would have very serious concerns of detriment being caused to residents due to noise if this application was to be accepted in its current form. These concerns would be difficult if not impossible to overcome even with conditions.

Pollution – IPC and Land, National and Local Amenity Societies, Garden History Society and Health and Safety Team: no response.

## **Representations**

Twelve objections have been received concerning the following: -

- Litter dropping and drunken, anti-social and criminal behaviour is already at a high level in the surrounding area. The previous night club on site created similar issues. The proposal would worsen these issues and harm the character of New Walk and the surrounding area.
- To retrospectively approve the night club would be improper.
- Suggestion that the proposed restaurant is a guise to alleviate concerns of a predominantly nightclub and 24-hour bar use.
- A nightclub/bar with long opening/drinking hours would not be compatible with the recent regeneration of the surrounding area. The proposal could/would have a negative impact on the local amenity of the increasing number of settled residents and businesses in the surrounding area, including night time disturbance from people leaving the premises and noise both day and night. This is of particular concern when the location is immediately opposite the mostly unoccupied The Circle, which is part of the city's regeneration.
- Reference has been made by many objectors to a Leicester Mercury newspaper article dated 15<sup>th</sup> April 2019 with the headline '24-hour tapas bar plan'. This article also mentioned a 24 hour delivery option, which is also a concern.
- Questions whether there are already enough alcohol retailers in the surrounding area. The area is already saturated with bars and restaurants open late into the night. There is no sufficient need/demand for an A3 or night club use as the city centre already has an over-supply.
- The proposal is unsuitable within close proximity to children's nurseries.
- Concern of the same issues with the flue that was approved at Fernandez Grillhouse on Friar Lane. The proposed flue would be in close proximity to residential properties and assumed to operate for 24 hours.
- The shopfront alterations go against conservation guidelines.

The Trustees of the Friends of New Walk Voluntary Association objected on the grounds that the design of the new premises and its usage do not appear to be in line with the Conservation Area, concern about the impact of the ventilation flue on neighbouring properties by reason of odour and noise etc. and concern about an increase in anti-social behaviour, noise, litter and waste storage and collection.

An objection was received by Councillor Kitterick concerning the detrimental impact on local residential and business amenity. No hours of use restrictions are proposed, which could result in a 24 hour operation of the premises, including the night club. Recent years have seen an increasing residential population in this part of Leicester and so the proposal would result in late night disturbance to these residents. The site has been the scene of violent incidents, which have damaged the reputation of this area of the city and the key historic area of New Walk. The application threatens the residential and commercial viability of the immediate area.

An objector did however note that they are not against some form of development at the property in principle, such as a restaurant, whilst another objector noted that they would welcome a new business in the area as it could increase footfall. Another objector noted that if done correctly and efficiently with the right openings hours, the new business would be good for the area.

## **Consideration**

### Principle of development

The premises are currently vacant. The planning history shows that the lawful use of the building is a restaurant. Nevertheless, the premises have been operating as a night club albeit without consent. It is not clear how long this was the case. The site is within a primarily office allocation as shown on the City of Leicester Local Plan 2006 proposals map. It is also in the city centre, but outside of the central shopping core.

- Core Strategy (2014) policy CS10 – Employment Opportunities: Within the existing professional office area between New Walk and the Cathedral, small class B1(a) offices between 100 and 1,000 sqm and class D1 uses (except places of worship) will be acceptable.
- Appendix 2 of the NPPF identifies nightclubs, restaurants and hot food takeaways as main town centre uses. NPPF paragraph 86 seeks to direct main town centre uses to town centres in the first instance.
- CS12 - City Centre:

*The Council will promote the growth of the City centre as a sub-regional shopping, leisure, historic and cultural destination, as the most accessible and sustainable location for main town centre uses and in recognition of its central role in the City's economy and wider regeneration by adopting the following strategy:*

- *Maintaining a compact and accessible retail centre by:*

- *Safeguarding the central Shopping Core as the focus of City centre retail development;*
- *Ensuring that new retail development is well integrated and closely linked with the streets of the central Shopping Core in terms of proximity, continuity of function and ease of access;*

National and local retail policy seeks to direct main town centre uses such as is proposed to town centres in the first instance before edge-of-centre site are considered to be appropriate. However, these premises have had a long standing history (dating back to at least the early 1980s) of main town centre uses on the ground floor and basement level. Offices occupy the first floor. Therefore, the principle of main town centre uses in this location has been established. This part of King Street from 4-10 and 7-19 has long established uses with shops and restaurants.

In summary, the property has an extensive history of main town centre uses, therefore the principle of the proposed uses are acceptable subject to design, amenity, parking and representations.

#### Design and Heritage Assets

The amended shopfront alterations would be a more integrated and contextually sympathetic improvement upon the existing shopfront, which has been altered over time and has little active frontage or on-street surveillance. The elegant rectangular glazed panels immediately below the fascia zone will be retained. The new door to the shopfront will align with the windows above and will continue the rectangular glazed design of the shopfront with its fan light. The size and profile of the canopy is matching to 4 King Street and will add interest to the front façade. The caged door to the basement will better define the public and private realm.

The new rear ventilation flue will be clad in brick slips to match with the existing bricks on site, and will also have the same width as the existing chimney, to minimise its visual impact and be more in-keeping with the host building and the surrounding area. Ventilation flues are required to be one metre above the ridge of the main roof to aid the proper dispersion of cooking fumes and odours.

A condition is recommended requiring further material and drawing details for the proposed timber shopfront and caged door and material details for the brick slip cladding of the ventilation flue in the interest of preserving the character and appearance of the Conservation Area. Level access and a wider door will be provided to improve access for disabled people and people with limited mobility, which is welcomed.

The rear yard area provides an area for waste storage provision that is not highly visible to the public realm, as existing. This will discourage the storage of waste to the front of the site, except during collection day, to prevent harm to the character and/or appearance of the Conservation Area. Public waste bins are located in close proximity to the site to discourage the dropping of litter. Violent, criminal and anti-social activities



are subject to other control systems. It cannot be assumed that the proposal would increase these activities in relation to the previous use.

Subject to the recommended conditions, I conclude that the proposal would comply with policy CS03 and CS18 of the Core Strategy (2014) and is acceptable in terms of the character and appearance of the New Walk Conservation Area.

### Residential amenity

The site is located within the Central Commercial Zone approximately 75 metres from the Central Shopping Core. Licensing records and mapping images indicate that the site has been used as a nightclub across both the basement and the ground floor for over ten years, after which an unlawful use is immune from enforcement action. There was approximately one annual noise complaint whilst the night club was in use, none of which resulted in a statutory nuisance. Such complaints were raised at a time when there were also two other night clubs in close proximity to the site at 1 Wellington Street and 2 King Street. 1 Wellington Street is still in use as a night club. 2 King Street has recently been converted into residential on the upper floors and a restaurant in the basement. Revolution at 6B New Walk is still in use as a bar/restaurant. It is considered that the section of New Walk Conservation Area to which the application relates has some night time economy character in connection with the nearby Central Shopping Core, namely Belvoir Street and Market Street.

Attached to the east of the site at 12 King Street is a hairdresser. Located to the eastern rear of the site is 5 Wellington Street in Class A2 use on the ground floor and a community centre and place of worship on the upper floors, but with an extant conditional approval (ref no. 20162462) for change of use of the upper floors to flats and ground floor for A1, A2, A3 or A5 use with a noise insulation condition attached. Opposite the site at The Circle is the recently developed mixed use development (ref no. 20160226) which includes flats with noise insulation conditions that have been discharged. Attached to the north of the site at 4A King Street is a café with no hours of use restriction. Located to the north of the site at 4 King Street is a restaurant with no hours of use restriction. In light above the above it is considered that on-street activity as a result of the proposed use would not be significantly out of character or detrimental to the residential amenity of the surrounding area.

The first floor of the host property is in use as an office, whilst the upper floors are in use as flats. Located to the rear of the site at 3 Wellington Street are flats for which conditional approval was granted in 2010 (ref no. 20100649), with a condition for the prevention of adverse noise transmission from neighbouring properties. To the rear of 3 Wellington Street are openable principal room windows, including three principal room windows at lower ground floor level at a similar floor level to the rear courtyard, and four ground floor windows at a similar floor level to the stairs leading to the rear yard. In the interest of preventing harm to residential amenity at 3 Wellington Street, I recommend conditions restricting the use of the rear courtyard area.

The original consent to use the site as a restaurant has no hours of use restrictions and could have been used as a drinking establishment or hot food takeaway by permitted development at the date of approval. The proposal would still be subject to licensing regulations, which may restrict the hours of opening as appropriate. In light

of the above and NPPF paragraph 182, I would consider it unreasonable to recommend refusal of the application. I do not consider it reasonable to recommend a condition to restrict the collection of deliveries in association with the A5 use, given that the site has limited access to vehicles and so will most likely be collections by bike or on foot with limited noise and disturbance. Ongoing discussions regarding hours of use and other potential conditions to protect residential amenity will be reported in an addendum.

I do not consider that the proposed ventilation flue will cause a significant loss of light or outlook to neighbouring residential windows. The ventilation flue is of a satisfactory height one metre above the ridge of the roof and has a plain termination point to aid the proper dispersion of cooking fumes/odours. In light of NPPF paragraph 183, I consider it onerous to request further details of the ventilation flue with regards to odour abatement.

I recommend a series of conditions to prevent harm to the residential amenity of the surrounding residential uses by noise and odour pollution, including a restriction on the opening hours of the sliding windows to the front and an improved noise impact assessment for the ventilation flue.

I conclude that subject to the recommended conditions and ongoing discussion regarding further conditions the proposal would comply with policy CS03 of the Core Strategy (2014) and would not conflict with saved policy PS10 of the Local Plan (2006), and is acceptable in terms of the privacy and amenity of the neighbouring occupiers.

#### Highways and Parking

The doors will be inwards opening as shown on the plans so as to prevent obstruction on the highway. Loading and unloading to and from the site would be via the pedestrianised area to the front and vehicular access is controlled from the northern end of King Street. I recommend a condition restricting the hours of deliveries in the interests of residential amenity with regards to noise pollution and general disturbance. Having regard to Appendix 01 cycle parking standards and maximum vehicle parking standards and the sustainable location of the site, I consider that the lack of vehicle and cycle parking provision is acceptable.

I conclude that the proposal would comply with policy CS15 of the Core Strategy (2014) and with saved policies AM01, AM02 and AM12 of the Local Plan (2006), and is acceptable in terms of parking.

#### Drainage

The site is located within a Critical Drainage Area. I consider that a requirement for a scheme of sustainable drainage would be onerous and that the impact of the proposal in terms of increased surface water run-off is unlikely to be significantly different to the existing situation. I conclude that the proposal would not conflict with Policy CS02 of the Core Strategy (2014) and is acceptable in terms of sustainable drainage.

I therefore recommend that this application is APPROVED subject to 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. Notwithstanding the submitted noise impact assessment ref. L4386, the uses and the installation of the ventilation flue authorised by this permission shall not commence until an insulation scheme to prevent the transmission of noise and vibration to adjacent properties, including the second and third floors of the host property, has been carried out in accordance with details which shall first have been submitted to and approved by the City Council as local planning authority, and retained thereafter. (In the interests of the amenities of nearby occupiers, and in accordance with policies PS10 and PS11 of the City of Leicester Local Plan (2006)).
3. Cooking of food that requires an external ventilation flue shall not commence until the ventilation system to control the emission of fumes and smells from the premises has been installed in accordance with approved plan ref no. DSA-18194-PL-PRO-01-K received by the City Council as local planning authority on 11/07/19, and shall be maintained thereafter in accordance with the manufacturer's instructions. (In the interests of the amenities of nearby occupiers, and in accordance with saved policies PS10 and PS11 of the City of Leicester Local Plan).
4. Prior to the commencement of any works to the new shopfront and caged door, detailed elevational and cross sectional drawings at a scale of 1:5 and material details of the new shopfront and caged door shall be submitted to and approved in writing by the City Council as local planning authority and carried out in accordance with the approved details. (To preserve the character and appearance of the Conservation Area in accordance with Core Strategy (2014) policies CS03 and CS18 and saved policy BE10 of The City of Leicester Local Plan (2006)).
5. Prior to the commencement of any works to the new ventilation flue a sample of the brick slip cladding to be used for the encasing of the ventilation flue shall be submitted to and approved in writing by the City Council as local planning authority, and implemented in accordance with the approved details and retained thereafter. (In the interests of preserving the character and appearance of the Conservation Area, and in accordance with Core Strategy policies CS3 and CS18).
6. The rear courtyard shall not be used by customers. (In the interest of residential amenity and in accordance with policies PS10 and PS11 of the City of Leicester Local Plan (2006)).
7. The rear courtyard shall not be used for disposal of waste outside the hours of 07:30 - 21:00 Monday to Saturday and 10:00 - 16:00 on Sundays. (In the interests of the amenities of nearby occupiers, and in accordance with policies PS10 and PS11 of the City of Leicester Local Plan (2006)).

8. Deliveries shall not be carried on outside the hours of 07:30-23:00 daily. (In the interests of the amenities of nearby occupiers and to preserve the character of the New Walk Conservation Area, and in accordance with policies PS10 and PS11 of the City of Leicester Local Plan (2006) and Core Strategy (2014) Policy CS18.)
9. The sliding windows at the front of the premises shall not be open outside the hours of 7:30 - 23:00 daily. (In the interests of the amenities of nearby occupiers, and in accordance with policies PS10 and PS11 of the City of Leicester Local Plan (2006)).
10. This consent shall relate solely to the amended plans ref. no. DSA-18194-PL-PRO-01-L and DSA-18194-PL-AL-02-C received by the City Council as local planning authority on 17/07/19. (For the avoidance of doubt.)

#### NOTES FOR APPLICANT

1. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received. This planning application has been the subject of positive and proactive discussions with the applicant during the process 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.
2. Regarding condition 2, an assessment of ambient noise during the day with regards to the kitchen extraction system has been undertaken. It compares ambient noise, including noise from other existing premises on adjoining properties and other premises in the area. However, the assessment has not taken into account night time/early morning noise levels, when other systems are not working. There are a number of flats that directly overlook the rear yard of the property (stated to be within 8m in the noise impact assessment). Whilst the assessment has recommended a number of issues that should be addressed, there is insufficient data/information supplied with the assessment/application with respect to noise from the extraction system over a 24 hour period.

#### **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\_BE10 In developments involving a new shopfront, the design should be an integral part of the whole building and should be in proportion to the lines of the facade of which it forms a part.
- 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\_E06 Planning permission granted for the development of B1 offices and criteria for the development of complementary uses.
- 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\_CS04 The Strategic Regeneration Area will be the focus of major housing development and physical change to provide the impetus for economic, environmental and social investment and provide benefits for existing communities. New development must be comprehensive and co-ordinated. The policy gives detailed requirements for various parts of the Area.
- 2014\_CS10 The Council will seek to ensure that Leicester has a thriving and diverse business community that attracts jobs and investment to the City. The policy sets out proposals to achieve this objective.
- 2014\_CS12 In recognition of the City Centre's role in the City's economy and wider regeneration, the policy sets out strategies and measures to promote its growth as a sub-regional shopping, leisure, historic and cultural destination, and the most accessible and sustainable location for main town centre uses.
- 2014\_CS14 The Council will seek to ensure that new development is easily accessible to all future users including by alternative means of travel to the car; and will aim to develop and maintain a Transport Network that will maximise accessibility, manage congestion and air quality, and accommodate the impacts of new development.
- 2014\_CS15 To meet the key aim of reducing Leicester's contribution to climate change, the policy sets out measures to help manage congestion on the City roads.
- 2014\_CS18 The Council will protect and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.



<b>Recommendation: Conditional approval</b>	
<b>20190086</b>	<b>22 SOUTH KNIGHTON ROAD, ULVERSCROFT, LAND ADJACENT</b>
Proposal:	CONSTRUCTION OF TWO SEMI-DETACHED DWELLINGS (2 X 3 BED) (CLASS C3) (AMENDED PLANS RECEIVED 17/04/2019)
Applicant:	MS S LITTLEJOHN
View application and responses	<a href="http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190086">http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190086</a>
Expiry Date:	1 August 2019
PK	WARD: Knighton



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## Summary

- Brought to committee because more than 5 objections have been received;
- 9 objections received raising concerns about residential amenity, character of area, highways, parking and trees;
- The main issues are the amenity and privacy, character, appearance, parking and highways safety, trees, flooding and sustainable drainage;
- Recommended for approval.

## **The Site**

The site relates to the side and rear garden of a semi-detached two storey dwelling which is on the local heritage list. The garden area is situated to the west of the host property.

The garden is largely grassed with two outbuildings at the rear. Land levels on site drop from north to south. The site is within an area known for surface water flooding (1 in 1000 years) and the far end of the garden (to the south) is within Flood Zone 2.

## **Background**

20181226 – Demolition of single storey extension at side; construction of single storey extension at rear of house (Class C3) Alterations to windows – Conditional approval granted on 30/07/2018

## **The Proposal**

The proposal is for the demolition of the side garden wall and sub-division of site to accommodate a pair of two storey semi-detached dwellings. The properties would have a total footprint measuring 9 metres in width and 10.7 metres in depth to the west (adjacent to the host property) and 9.1 metres along the common boundary with no.20 South Knighton Road. The footprint of the property adjacent to no.20 would be staggered to extend 10.7 metres at a distance of 1.66 metres from the side elevation of the proposed property. The two storey depth of the properties would measure approximately 9.1 metres. The remainder of the ground floor projection would be of single storey height with a flat roof.

The proposed dwellings would have a dual-pitched gable end roof with a ridge height of 8.6 metres and eaves of 5.5 metres.

The properties would have 1 off-street vehicle parking to the front each and their respective gardens would be situated at the rear. It would appear that one of the outbuildings within the garden would be given to each property. The host property would have one off-street parking space.

Amended plans have been submitted during the course of the application which has altered the design of the roof of the proposed dwellings from a mansard to a dual pitched roof. The red line boundary has also been amended to include the host property within the application site. A second set of amended plans have been submitted which corrected the plans to show how many side facing windows there would be on the proposed properties.

## **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. Paragraph 11 contains a presumption in favour of sustainable development.



For decision taking, this means approving development proposals that accord with the development plan without delay.

Where the development plan is absent, silent or relevant policies are out of date, this means granting planning permission unless 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 any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the NPPF taken as a whole. Leicester City Council does not currently have a 5 year housing land supply therefore the policies relating to housing are out of date. Paragraph 68 of the NPPF states that small and medium sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. The policy goes stating that local authorities are required to support the development of windfall sites through decisions- giving great weight to the benefits of using sustainable sites within existing settlements for homes.

In making an assessment Paragraph 108 of the NPPF 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 degree.

Paragraph 109 advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. Paragraph 117 requires planning policies and decisions to promote the effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

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

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 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 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.

Paragraph 170 of the NPPF encourages decisions to contribute to and enhance the local and natural environment. Paragraph 175 advises that local planning authorities should aim to conserve and enhance biodiversity by encouraging opportunities to incorporate biodiversity in and around developments, and that planning permission should be refused for development resulting in the loss of aged or veteran trees unless the need for the development clearly outweighs the loss.

Section 16 places and emphasis on the desirability to sustain and enhance significance of Heritage Assets. Paragraph 192 indicates that there is desirability to sustain and enhance the significance of Heritage Assets and paragraph 193 advises that great weight should be given to an asset's conservation. Paragraph 200 requires local planning authorities to look for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

#### Development Plan policies

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

#### Supplementary Planning Documents (SPD)

*Residential Amenity SPD*

*Appendix 01 – City of Leicester Local Plan*

#### **Consultations**

Local Highways Authority – Advises additional off street parking spaces should be provided

Lead Local Flood Authority – No objection subject to conditions

Trees and Woodlands: No objection subject to conditions

#### **Representations**

Nine letters of objection on the following grounds:

- Impact on parking and highways safety
- Impact on residential amenity in terms of loss of daylight, overshadowing, privacy, noise and disturbance
- Inappropriate suggestion of external materials
- Impact on flood risk

- Plumbing in local area is very old
- Tree plan appears to be inaccurate
- Extension at no.20 is not on the plans submitted so it's difficult to assess the application
- Impact on heritage, and integrity of the building, site and wider street scene
- Poor layout for the proposed dwellings.

## **Consideration**

The main issues in this case are: residential amenity; the character and appearance of the area (including the setting of the Locally Listed Building); the quality of the proposed accommodation; the adequacy of parking provision and the access arrangements; trees, ecology and landscaping and; sustainable drainage.

### Residential amenity (*neighbouring properties*)

Policy CS03 of the Leicester Core Strategy (2014) states that development must respond positively to the surroundings and be appropriate to the local setting and context. 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: noise and air pollution; the visual quality of the area; additional parking and vehicle manoeuvring; privacy and overshadowing; safety and security; and the ability of the area to assimilate development.

Section 3 of the Council's *Residential Amenity SPD* (2008) ("the SPD") sets out more detailed design guidance for development in outer areas of the City. In particular, it recommends separation distances of 15 metres between a blank wall and principal room windows and of 21 metres between facing principal room windows. It also recommends the provision of a minimum of 100 square metres' amenity space for detached dwellings. Although Appendix G of the SPD is primarily intended as a guide for house extensions, the SPD does say Appendix G is also intended for new houses. also of relevance that: a separation distance of 11 metres is recommended between principal room windows and the boundary with any undeveloped land, including neighbouring gardens; that the separation distance between principal room windows may be reduced to 18 metres where direct overlooking is avoided by the positioning of windows, and that a two storey rear extension should not project beyond a 45 degree line from the nearest point of any ground floor principal room window at an adjacent property.

### *Knighton Church Road*

The two storey rear elevation of the dwellings would be a distance of 18 metres from the rear boundary of the site which is common with properties along Knighton Church Road. The two storey rear elevations of these properties are a further 14 metres from the same boundary. As such, based on the separation distances of over 22 metres as required by the Residential Amenity SPD, I consider the proposed development would not result in significant harm in terms of privacy and overbearing. Some comments

regarding impact on light to the properties at the rear has been raised, but in consideration of the southern position of these properties on Knighton Church Road and the separation distance between existing and proposed dwellings I consider there to be sufficient distance maintained between properties to ensure that there would be no significant loss of light.

The existing outbuildings at the rear are to be retained, but will not be used for car parking, as suggested by an objector. I consider there to be no significant impacts in terms of noise and disturbance from the proposed development.

### *20 South Knighton Road*

The proposed dwellings would be situated to the west of no.20 at a distance of approximately 1.5 metres from the common side boundary. This property also has a gap of 1.2 metres from the same boundary. The property has a ground floor side facing window which looks onto the 1.8 metre high timber fence boundary treatment. This window is a secondary window to a living room which has a traditional bay window to the front as its main source of light and outlook. I appreciate that due to no.20 being north-facing the side light provides a source of light into the living room at the later hours of the day; however this window cannot be considered as the principal source of light when the same room is served by a bay window to the front. It is acknowledged that there would be some loss of light to this window by the proposal; however I consider this impact cannot be afforded significant weight as it is not the only source of light for the living room.

Directly above the ground floor side window is a single pane window serving the hallway. This is a non-principal room and cannot be afforded significant weight.

At the rear of the two storey property (adjacent to the outrigger side wall) there is a rear facing window which appears to serve a principal room. The submitted plans have plotted a 45 degree line from the side of this window in accordance with the Residential Amenity SPD. The plans indicate that there would be no obstruction of a 45 degree angle from the window and therefore I consider the proposal would not adversely impact daylight to an outlook from this room. I appreciate that the proposed development would be visible and may cast a shadow to the area immediately around the common boundary; however for most of the day the occupants of no.20 would continue to enjoy the same level of amenity as existing.

The roof space of no.20 at the rear has a flat roof dormer serving a bedroom. The proposed development would not intersect a 45 degree line when taken from the windows within the dormer. As such I consider any impacts on the occupants of this room would be minimal.

Turning to the outrigger there is a ground floor ground floor side window within a bay and rear facing patio doors. These form part of an extension at no.20. The side window also faces the common boundary and the mature trees along the common boundary. These trees are proposed to be removed and I consider the daylight to and outlook from the side window would be improved as a result of the proposal. Likewise I consider the rear patio doors would not be adversely impacted by the proposal as it projects beyond the rear wall of the proposed properties.

At the first floor of the outrigger there is a side window which appears to serve a bathroom. This is a non-principal room and therefore I considered this window would not be adversely impacted in terms of daylight and outlook.

The proposed dwellings would have side facing windows on its east elevation. At ground floor, one window would serve a bathroom and the other would be a high-level window to serve the open plan dining and living room. I consider a high-level window would not result in significant levels of overlooking towards the adjacent property. The bathroom window would be secured as obscure glazed by way of condition which is considered to be appropriate to maintain adequate levels of privacy between the properties.

Likewise the side windows on the upper floors would be windows serving the staircase. These are non-principal rooms and it is appropriate to attach a condition to have these windows installed and maintained as obscure glazed.

The proposed development would have first floor rear facing windows and dormers within the loft space. I consider that these windows would only allow oblique views into the garden of no.20 which would not result in significant harm in terms of privacy.

The proposed built form would be visible from the garden of the adjacent property by the construction and also by the loss of some trees within the garden. The built form would result in some overshadowing to the east of the building in the area around the common boundary between the site and no.20. However I consider the proposal would not cast a shadow across the property and garden of no.20 so significantly to warrant refusal on these grounds. Similarly the proposed dwellings, as amended, would not appear visually dominating from the adjacent property and garden. I consider adequate separation has been retained from the side common boundary to ensure the proposal is not significantly overbearing.

#### *Ulverscroft, 22 South Knighton Road*

The host property on site benefits from planning permission 20181226 which proposes the demolition of a single storey side extension, construction of single storey rear extension and alterations. The assessment of this application will be based on the approved plans of permission 20181226 as the proposed development cannot be implemented until planning permission 20181226 has been implemented.

The proposed dwellings would be approximately 2 metres from the side wall of the host property which has no side facing windows. The proposed dwellings would be set-back from the front-most building line of the host property. The front element has approximately 4 single pane side facing windows which serve non-principal rooms and are secondary windows to the sitting room and master bedroom. I consider these windows would not be adversely impacted by the proposed dwellings.

The rear elevation of the proposed dwellings would be built in line with the rear elevation of the host property and I consider this would ensure that rear facing principal room windows would not be adversely impacted in terms of daylight and outlook.

I consider the side facing non-principal room windows at the proposed dwellings could be secured as obscure glazed. The high level window serving the open plan living and

dining rooms would not result in significant harm in terms of privacy as the window would face the common boundary.

The rear windows on the proposed dwelling would only allow oblique views to the rear garden of the adjacent garden. I consider this would not be so harmful to the privacy of adjacent occupant to warrant refusal. Likewise I consider the proposed dwellings would not be visually dominating when viewed from the adjacent property and gardens.

By virtue of the position of the proposed dwellings and scale of development I consider there would be no significant harm to other residential properties along South Knighton Road. I do not consider the provision of parking to the front of the site combined with the hard and soft landscaping to the front would result in detriment to the residential amenities of adjacent occupants.

In addition to the above, the site would be in residential use which is compatible with the residential properties along South Knighton Road. Similarly, I do not consider that the finished development would be likely to give rise to unacceptable levels of increased light or air pollution.

I conclude that the proposal would comply with Core Strategy Policy CS03 and would not conflict with saved Local Plan Policy PS10 and, having regard to the SPD, is acceptable in terms of the privacy and amenity of the neighbouring occupiers.

#### 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. It goes on to require development to respond positively to the surroundings and to be appropriate to the local setting and context and, at paragraph 1 (first bullet point), to contribute positively to an area's character and appearance in terms of *inter alia* urban form and high quality architecture. Policy CS08 states that the Council will not permit development that does not respect the scale, location, character, form and function of the local area. 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 house at no.22 is a Locally Listed heritage asset, covered by an Article 4 Direction and adjacent the Locally Listed St Guthlac's Church to the immediate north.

The building (no.22) is a distinctive example of an early 20<sup>th</sup> century vernacular design, significantly adding to the character and appearance of the surrounding streetscape. There are no objections to the demolition of the elongated wall feature on site, of negligible heritage significance in its current form.

The scale and footprint of the dwellings as proposed is broadly matching the scale of 22 South Knighton Road, thus considered acceptable. The proposal would not significantly harm the character and setting of the locally listed building. I consider it reasonable and necessary to attach a condition for landscaping to be approved to the front of the site (as shown on the submitted plans). This would soften the appearance of the built form and retaining the character of the host building.

The proposed development would be set-back from the established building line which is considered acceptable in this instance. The set-back would allow the property to be read as a modern addition within the street scene whilst also providing space for vehicular parking and soft landscaping to the front. The built form would not be visually intrusive, nor harmfully dominate the street scene of South Knighton Road.

The amended plans have removed the mansard roof form of the proposed dwellings. The proposed dual-pitched roof would be a more sympathetic and visually appealing roof form within the local area. I consider the simplistic design of the property combined with the set-back would ensure the proposed built form would not compete with the prominent locally listed building.

The external materials proposed are broadly acceptable, comprising buff and stock blend brickwork topped by slate roof. These would enable the proposed development to be read as modern, yet by the extensive use of light brick, enable it to integrate visually with the surrounding streetscape and the adjacent Locally Listed asset in particular. The external finishes would need to be agreed by way of condition which is reasonable and necessary.

I am satisfied that the development would not be too intensive or out of proportion to the surrounding suburban area. I conclude that the proposal would comply with Core Strategy Policies CS03, CS08 and CS18, and would not conflict with saved Local Plan Policy PS10 and is acceptable in terms of the character and appearance of the area.

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

Policy CS03 of the Leicester Core Strategy (2014) states that new development should, *inter alia*, create buildings and spaces that are fit for purpose and achieve the highest standards of accessibility and inclusion. Policy CS06 states that new housing developments will be required to provide an appropriate mix of housing types, sizes and tenures to meet the needs of existing and future households in the City and seeks to ensure that new housing units are designed to meet 'Lifetime Homes' standards. The amenity factors set out at saved Policy PS10 of the Local Plan (2006) apply to the future occupiers of proposed development as well as to the occupiers of existing neighbouring property. Saved Policy AM01 of the Local Plan (2006) states that planning permission will only be granted where the needs of people with disabilities have been successfully incorporated into the design.

Section 3 of the Council's *Residential Amenity SPD* (2008) ("the SPD") sets out more detailed design guidance for development in the outer areas (which would include the application site) of the City.

The proposed dwellings would provide good-sized accommodation suitable for family occupation. All of the principal rooms within the dwellings would have at least one window providing a source of daylight and outlook, and I consider that individual room sizes would be sufficient to accommodate the reasonable furniture requirements of future occupiers whilst maintaining satisfactory circulation space.

It is noted that the ground floor layout is open plan with the kitchen at the rear and dining and living room centrally within the property. The dining and living room would

be served with a high level window and by the openings within the kitchen at the rear. Although it is not ideal to not have a regular sized opening serving this room, in consideration of the open plan layout and size of the high level window I consider that this would not unreasonably compromise the amenity of future occupants.

I consider as a pair of semi-detached properties there would be no unreasonable impacts of overlooking, daylight, outlook and overbearing between the two.

Although the plans submitted do not include details for bin provision, I consider these can be adequately accommodated within the rear garden and brought to the street side on waste collection days. I do not consider a condition in this respect to be necessary.

The Lifetime Homes Standards have now been replaced by the requirements of the optional Building Regulations Standard M4(2) (accessible and adaptable dwellings). I consider that it is reasonable and necessary to secure compliance with Building Regulations Standard M4(2) as a condition of planning permission.

Section 3 of the Council's *Residential Amenity* SPD (2008) sets out more detailed design guidance for development in outer areas of the City. It advises that semi-detached 2/3 bedroom properties should provide approximately 100 square metres of garden area. Both of the proposed dwellings would provide in excess of these requirements and the gardens areas would be useable for common activities. I note that the outbuildings would be within the garden of each property; however I consider this would not unreasonably reduce the amount of space available to future occupants. Additionally the outbuildings would provide a form of outside storage space for the properties which is common for residential properties.

Having regard to the SPD and the site context, I consider that the proposal would provide satisfactory living conditions for the future occupiers and would be consistent with Core Strategy Policies CS03 and CS06 and saved Local Plan Policies AM01, and PS10.

### Highways and Parking

Policy CS15 of the Leicester Core Strategy (2014) states that parking for residential development should be appropriate for the type of dwelling and its location, and take into account the amount of available existing off street and on street car parking and the availability of public transport. It also seeks the provision of high quality cycle parking. Saved Policy AM02 of the Local Plan (2006) states that planning permission will only be granted where the needs of cyclists have been successfully incorporated into the design. Policy AM12 gives effect to published parking standards.

Appendix 01 of the Local Plan (2006) sets out guideline standards for car parking in new developments. For dwellings, a maximum of 2 spaces for 3+ bedroom dwellings is recommended. The Appendix also recommends the provision of cycle parking at a ratio of 1 space per 2 bedspaces for residents plus 1 per 20 bedspaces for visitors.

The proposal will only provide 1 parking space for each of the dwellings including the existing dwelling, and this level of parking is below the City Council standards of 2 car parking spaces per dwelling. For owner occupied houses in the Knighton Area, the 2001 Census showed that the average car ownership was 1.4 per dwelling and the



prediction was that by 2026 that will have risen to 1.7 vehicles per dwelling. It is suggested by the Local Highways Authority that the front driveways of each property could be altered to provide two parking spaces per dwelling.

Paragraph 109 of the NPPF 2018 advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The site is close to the A6 corridor, which does provide good public transport links, and therefore residents would have a sustainable alternative to the use of a car for some of their journeys, moreover parking along South Knighton Road and adjacent roads is not controlled. The provision of 6 car parking spaces (for the existing and proposed dwellings) to the front of the site would result in the creation of an extended length of dropped kerb which is undesirable. Moreover, it is unlikely that the 6 car parking spaces can be provided with adequate 2 metre by 2 metre visibility splays to maintain highways safety. I consider the shortfall of car parking spaces is undesirable; however on balance the provision of two dwellings combined with some off-street parking is acceptable and would not result in a severe highways impact.

Cycle parking can be accommodated within the rear gardens of the proposed dwelling and I consider it unreasonable to attach a condition requiring the submission of such details by way of condition.

I consider the site is within a sustainable location and the provision of one vehicle parking space per property would not result in severe residual cumulative impacts to warrant refusal. I consider the development would accord with Core strategy policy CS15 in terms of managing car parking demand.

### Ecology and Landscaping

Policy CS03 of the Leicester Core Strategy (2014) sets out an expectation for high quality, well designed development that contribute positively to the character and appearance of the local natural and built environment. Policy CS17 recognises that Leicester's urban environment, including buildings and private gardens, can provide important habitats for wildlife, and states that the Council will expect development to maintain, enhance and/or strengthen connections for wildlife. Saved Policy UD06 of the Local Plan (2006) resists development that would impinge upon landscape features of amenity value and requires new development to include planting proposals.

The development site is located in an area surrounded by mature gardens that contribute to connectivity for wildlife to the wider natural environment. It appears from the plans that no existing buildings will be impacted by the proposals and therefore there are no significant concerns regarding bats. It is recommended that enhancements should be incorporated within any development to achieve a net gain in biodiversity in accordance with paragraph 175 of the NPPF 2019. Enhancement such as the planting of replacement native hedging, locally native insect attracting species of planting (which will have the added benefit of acting as natural SuDS (Sustainable urban Drainage System), replacement tree planting and installation of 2 bat and swift bricks should be considered and details of a Landscape and Ecological plans should be required by way of condition. A note to applicant for vegetation removal to take place outside of bird nesting season (bird nesting season is February until August) should also be included.

I conclude that the proposal would comply with Core Strategy Policies CS03 and CS17 and saved Local Plan Policies UD06 and BE22, and is acceptable in terms of its impacts upon trees, ecology and landscaping.

### Drainage

Policy CS02 of the Leicester Core Strategy (2014) states that development should be directed to locations with the least impact upon flooding or water resources. It goes on to state that all development should aim to limit surface water run-off by attenuation within the site, giving priority to the use of sustainable drainage techniques.

The applicant has submitted a Drainage Strategy Report (FW1802/DS/001 v1) alongside confirmation from Severn Trent Water to demonstrate that a new connection can be made into the development site. Based on the information submitted the principle of development on the basis of drainage and flood risk is acceptable; however it is recommended that details of drainage and foul drainage should be submitted. In addition to this details of sustainable urban drainage should also be submitted for approval.

On the basis of the above and subject to condition I consider the proposal would appropriately mitigate any harm in terms of flood risk. As such I consider the proposal would be acceptable on these grounds and would comply with policy CS02 of the Core Strategy.

### Conclusion

I consider the parking provision is sufficient to avoid severe highways impacts. The proposed development would not result in significant harm to the residential amenities of adjacent neighbours nor would it harmfully impact the character of the area and the significance of the locally listed building. The proposal would have an acceptable impact on ecology and trees and landscape measures can be secured by way of condition. Likewise suitable sustainable drainage mitigation can be accommodated within the site and secured by condition.

The Council cannot currently demonstrate a supply of specific, deliverable sites sufficient to provide five years' worth of housing against objectively assessed housing requirements and the NPPF establishes a presumption in favour of sustainable development. In this case and in light of paragraph 11 (d) (ii), I consider that the harm caused by the lower off-street parking provision is outweighed by the development's contribution to housing supply and I conclude that the proposed development is sustainable development.

I therefore recommend that planning permission be APPROVED subject to the following conditions:

#### CONDITIONS

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

2. Before the development is begun, the materials to be used on all external elevations and roofs shall be submitted to and approved by the City Council as local planning authority. (In the interests of visual amenity, and in accordance with Core Strategy policy CS03. To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).
3. Prior to the commencement of the development hereby approved details of all street works, including alterations to the footway crossing, shall be submitted to and approved in writing by the City Council as local planning authority. Prior to the occupation of the development all streetworks must be implemented in full accordance with the approved details. (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.
4. Prior to the commencement of development details of drainage, and especially foul drainage, shall be submitted to and approved by the local planning authority. No property shall be occupied until the drainage has been installed in accordance with the approved details. It shall be retained and maintained thereafter. (To ensure appropriate drainage is installed in accordance with policy CS02 of the Core Strategy).
5. Prior to the commencement of development full details of the Sustainable Drainage System (SuDS) together with implementation, long term maintenance and management of the system shall be submitted to and approved by the local planning authority. No property shall be occupied until the system has been implemented. It shall thereafter be managed and maintained in accordance with the approved details. Those details shall include: (i) full design details, (ii) a timetable for its implementation, and (iii) a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the system throughout its lifetime. (To reduce surface water runoff and to secure other related benefits in accordance with policy CS02 of the Core Strategy.)
6. Before the development is begun, 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 which shall first have been submitted to and approved by the City Council as local planning authority. 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 CS03. To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).

7. The development hereby approved shall not progress beyond damp proof course level until a detailed landscape and ecological management plan (LEMP) showing the treatment of all parts of the site which will remain unbuilt upon shall be submitted to and agreed in writing with the City Council as local planning authority. This scheme shall include details of: (i) new tree and shrub planting, including plant type, size, quantities and locations; (ii) means of planting, staking, and tying of trees, including tree guards; (iii) other surface treatments; (iv) fencing and boundary treatments; (v) any changes in levels; (vi) the position and depth of service and/or drainage runs (which may affect tree roots); (vii) details of planting design and maintenance of rain garden; (viii) details of 2 x bat brick and 2 x Swift bricks to be installed under the guidance and supervision of a qualified ecologist. The approved LEMP shall be carried out within one year of completion of the development. For a period of not less than ten 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 (To ensure that the finished development contributes positively to the character and appearance of the area and that appropriate provision for biodiversity in accordance with the submitted ecology report is made within the site, and in accordance with saved Policy UD06 of the Local Plan (2006) and Policies CS03 and CS17 of the Leicester Core Strategy (2014)).
8. No part of the development shall be occupied until the 2 metre by 2 metre sight lines, or the maximum that can be achieved within land under the applicants control) 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. Before the occupation of the development the parking spaces shown on the approved plans shall be provided and shall be retained for vehicle parking. (To secure adequate off-street parking provision, and in accordance with policy AM12 of the City of Leicester Local Plan and Core Strategy policy CS3.)
10. Before the occupation of the proposed extension new windows facing 20 and 22 South Knighton Road shall be fitted with sealed obscure glazing (with the exception of top opening light) and retained as such. (In the interests of the amenity of occupiers of 20 and 22 South Knighton Road and in accordance with policy PS10 of the City of Leicester Local Plan).
11. The dwelling and its associated parking and approach shall be constructed in accordance with 'Category 2: Accessible and adaptable dwellings M4 (2) Optional Requirement. On completion of the scheme and prior to the occupation of the dwelling a completion certificate signed by the relevant inspecting Building Control Body shall be submitted to the City Council as local planning authority certifying compliance with the above standard. (To ensure the dwelling is adaptable enough to match lifetime's changing needs in accordance with Core Strategy policy CS06)

12. This consent shall relate solely to the amended plans ref. no. 475-1/P01D and 475-1/P02D received by the City Council as local planning authority on 17/04/2019, Planning Design & Access Statement received by the City Council as local planning authority on 16/01/2019, Arboricultural Report and sustainable Urban Drainage Strategy received by the City Council as local planning authority on 06/02/2019 and Drainage Strategy Report received by the City Council as local planning authority on 26/06/2019. (For the avoidance of doubt.)

#### NOTES FOR APPLICANT

1. The Highway Authority's permission is required under the Highways Act 1980 and the New Roads and Street Works Act 1991 for all works on or in the highway.  
For new road construction or alterations to existing highway the developer must enter into an Agreement with the Highway Authority. For more information please contact [highway.management@leicester.gov.uk](mailto:highway.management@leicester.gov.uk)
2. Alterations to the footway crossing shall be provided accordance with guidance in the Leicester City Council and Leicestershire County Council document `6Cs Design Guide`.
3. With respect to condition 6 above, the fencing required should be welded mesh panels securely fixed to a scaffold frame work with uprights driven well into the ground and in this case should be provided not within the root protection area in accordance with details within the approved Arboricultural Report. The applicant is advised to visit <http://shop.bsigroup.com/en/ProductDetail/?pid=00000000030213642> to find out further information in respect of BS 5837:2012.
4. 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 LPA. 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 to the nest whilst it 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.  
'Bats are a rare and declining group of species. Hence, all British species of bat are fully protected by the Wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural Habitats &c.) Regulations 1994, making it an offence to intentionally or recklessly kill or injure or disturb these species whilst in a place of shelter or protection. Failure to comply with this may result in prosecution and anyone found guilty of an offence is liable to a fine of up to £5,000 or to imprisonment for a term not exceeding six months, or both'.

5. No permission is granted or implied for any development (including any overhanging projections) outside the application site.
6. 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.  
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_AM12 | Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01.  |
| 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_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_CS15 | To meet the key aim of reducing Leicester's contribution to climate change, the policy sets out measures to help manage congestion on the City roads.  |
| 2014_CS17 | The policy sets out measures to require new development to maintain, enhance and strengthen connections for wildlife, both within and beyond the identified biodiversity network.  |
| 2014_CS18 | The Council will protect and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.   |

<b>Recommendation: Conditional approval</b>	
<b>20190200</b>	<b>1 RUFFORD STREET</b>
Proposal:	CONSTRUCTION OF SINGLE AND TWO STOREY EXTENSIONS AT SIDE AND REAR; SINGLE STOREY DETACHED BUILDING AT REAR OF HOUSE (CLASS C3) (AMENDED 03.06.19)
Applicant:	MR S MUSA
View application and responses	<a href="http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190200">http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190200</a>
Expiry Date:	9 April 2019
TEI	WARD: North Evington



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## Summary

- The application is before committee at officer's discretion to consider the relationship between the proposed extension and the rear of the Green Lane Road properties given that this does not fully meet the Supplementary Planning Guidance.
- One objection has been received from the adjacent property to the north.

- The main issues are design and the impact of the proposal on the residential amenity of occupiers of the property and of occupiers of neighbouring properties.
- The recommendation is for approval.

### **The Site**

The application relates to a two storey semi-detached dwelling in a residential part of the city.

### **Background**

A planning application (19980027) for a two storey extension to the side and a single storey extension to the rear of the house was refused in 1998 due to its impact on the amenity and outlook of 233 Green Lane Road.

### **The Proposal**

The proposal as amended is for a single storey and two storey extension at the rear and a single storey and two storey extension at the side of the property. The extension to the rear will have a footprint of 4.5 metres by 9.2 metres with the central two storey part being 3.3 metres in width and centrally positioned. There will be two windows and glazed French doors on the ground floor and a single window at first floor facing the garden at the rear property. The roofs of all parts of the rear extension will be hipped.

The original plans proposed a two storey extension to the side of 11.7 metres in depth. However, amended plans were sought and this part of the scheme has been reduced so that it is 6.2 metres in depth. It will be set back 1 metre from the front elevation and will be no deeper than the existing property. There will be a ground floor window to the front elevation and a first floor window to both the front and rear elevations. The roof will be hipped and set lower than the ridge of the existing building.

The proposal is also for a single storey outbuilding at the rear with a footprint of 3.5 metres by 5 metres and at a height of 3.2 metres (2.5 metres to the eaves).

### **Policy Considerations**

#### National Planning Policy Framework (NPPF) 2019:

Chapter 12 'Achieving well designed places:

Chapter 12 stresses the importance of good design to achieve high quality buildings and places. Paragraph 130 goes on to state that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Paragraph 127 of the National Planning Policy Framework states that planning decisions should ensure safe, secure and inclusive developments with a high standard of amenity for existing and future users.

#### Development Plan policies:



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

Additional documents:

Residential Amenity (Supplementary Planning Document)

## **Representations**

An objection was received in relation to the original submission. This is in the form of an annotated plan giving concerns with the size of the development and noting that their ground floor principal room will be 8.1 metres from the wall of the two storey extension. It also notes that the extension will be 12 metres from the rear of the adjacent property at 231 Green Lane Road. In both instances the representation adds that it understands the minimum depth should be 18 metres. The representation also adds that the proposal means the property would require four parking spaces and a garden area of 100 metres<sup>2</sup>.

## **Consideration**

Character and design:

The first floor of the side extension will be set back one metre from the front of the existing dwelling and the ridge line of both two storey elements will be lower than the existing ridge line. As such the proposal will appear subordinate to the existing dwelling. However, in order to ensure that the proposal is successfully integrated with the existing dwelling I consider it appropriate to attach a condition requiring materials to match.

I conclude that the proposal would comply with Policy CS03 (CS18) of the Core Strategy (2014) and would not conflict with saved Policy PS10 of the Local Plan (2006), and is acceptable in terms of the character and appearance of the area.

Residential amenity (neighbouring properties):

The only window facing the rear of the Green Lane Road properties will be obscure glazed and the proposal will not have a harmful effect on the privacy of adjacent properties.

Appendix G 'Design Guide for House Extensions' of the Residential Amenity (Supplementary Planning Guidance) advises that the separation distance between an elevation of one property with no windows and an elevation of another property with windows be a minimum of 15 metres. Given the positioning of the original buildings this would not allow for a two storey extension at the side of the property to be constructed. I consider it reasonable for a semi-detached property such as this to have some scope for a two storey side extension.

On officer's advice the original submission was amended to reduce the depth of the two storey extension at the side and its impact on the outlook from the rear of the Green Lane Road properties.

One of the first floor rear windows of 233 Green Lane Road appears to be obscure glazed and possibly serving a bathroom. The other appears to serve an habitable room. Though the proposed two storey element to the side will be less than the 15

metres away from the rear of 233 Green Lane Road (approximately 11.6 metres away) it will for the most part be no deeper than the existing property. This part of the scheme will be 3.1 metres in width and the rear windows of 233 already face the side wall of the host property. I consider that given the reasonable expectation for a two storey side extension at the property this difference in outlook of 3.1 metres is in this case acceptable on balance. The two storey element at the rear will be 14.7 metres from the rear of 231 Green Lane Road and I consider this to also be acceptable.

I conclude that the proposal would comply with Policy CS03 of the Core Strategy (2014) and would not conflict with saved Policy PS10 of the Local Plan (2006), and is acceptable in terms of the privacy and amenity of the neighbouring occupiers.

Residential amenity (host property):

With the extensions and outbuilding taken together there will be 90 metres<sup>2</sup> of private amenity space left over at the property which, though lower than the minimum 100 metres<sup>2</sup> recommended in the Residential Amenity Supplementary Planning Guidance, I consider to be a reasonable amount of useable amenity space for occupants. In any case the proposal would not exceed the 50% coverage of the site area (not including the original dwelling) allowed as permitted development.

Conclusion:

Although the proposal does not meet the Supplementary Planning Guidance I consider that as the amended scheme has the two storey part of the side extension reduced so that it is no deeper than the existing property this is on balance and in this case an acceptable form of development given the reasonable expectation that there be some scope for a two storey side extension.

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. The new walls and roof shall be constructed in materials to match those existing. (In the interests of visual amenity, and in accordance with Core Strategy policy CS03.)
3. This consent shall relate solely to the amended plans received by the City Council as local planning authority on 03.06.19. (For the avoidance of doubt.)

NOTES FOR APPLICANT

1. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may

have been received. This planning application has been the subject of positive and proactive discussions with the applicant during the process.

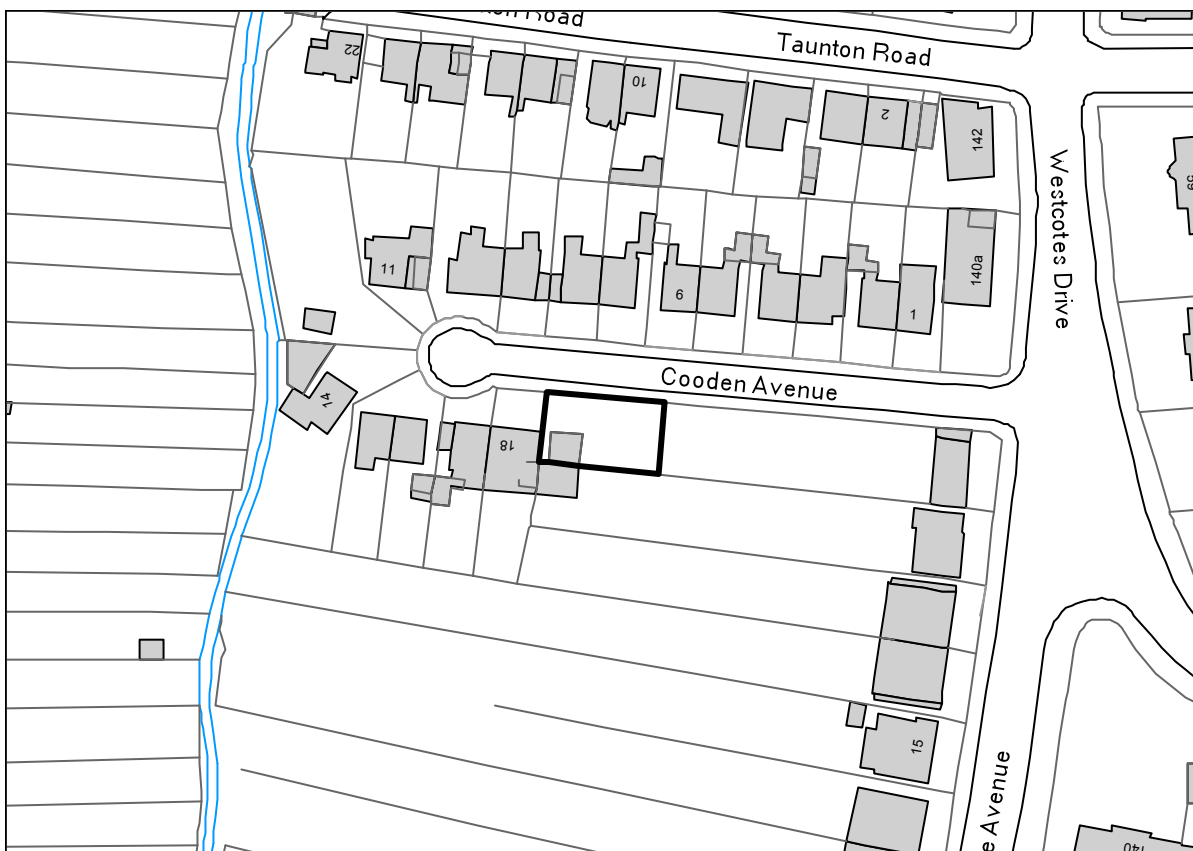
The decision to grant planning permission with appropriate conditions taking account of those material considerations in accordance with the presumption in favour of sustainable development as set out in the NPPF 2019 is considered to be a positive outcome of these discussions.

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

- 2006\_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'.



<b>Recommendation: Conditional approval</b>	
<b>20190383</b>	<b>7 BRAUNSTONE AVENUE, LAND R/O</b>
Proposal:	CONSTRUCTION OF SINGLE STOREY EXTENSION AT SIDE OF GARAGE TO CREATE DWELLINGHOUSE (1X 2 BED) (CLASS C3); ALTERATIONS (AMENDED PLANS 17/06/19)
Applicant:	MRS BAXTER
View application and responses	<a href="http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190383">http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190383</a>
Expiry Date:	7 August 2019
SC	WARD: Westcotes



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### Summary

- The application is being brought to committee because more than 6 objections have been received.
- 14 objections received, raising concerns about harm to the character and appearance of the area, wildlife, private views and residential amenity, parking and highways impacts, overdevelopment of the site, impact on property prices, flooding, compromising the future development of nearby land.

- The main issues are design, residential amenity, traffic and parking.
- Recommended for approval.

### **The Site**

This application relates to the garden belonging to an existing house, located on a corner plot in a primarily residential area. The house has an extensive back garden (just over 60m deep), and there are a number of trees in the back garden, and along the northern boundary fence. An existing detached garage is located at the very rear of the site. Its walls are finished using a mixture of bare brick and pebble-dash render, with a corrugated roof.

There is a change of levels across the site, with the ground falling away strongly to the west. The site is located in a Critical Drainage Area. The Braunstone Brook runs approximately 45m to the west, and there are areas of Flood Zone 2 and 3 surrounding this, but the site lies outside these.

### **Background**

072912 – Erection of garage. Approved June 1949.

20051629 – One (3 bedroomed) house with integral garage. Refused in October 2005 on the grounds that it would be harmful to the character and appearance of the area, and on grounds of inadequate information.

20052206 – One (3 bedroomed) house with integral garage. Refused in March 2006 on the grounds that it would have a cramped appearance that would be detrimental to the character and appearance of the area, and that it would be an overdevelopment that would provide a living environment that would be dark and have limited outlook. Appeal against the refusal dismissed on the grounds that it would harm the character and appearance of the area.

20080608 – Two storey detached residential annexe at rear of house. Refused in August 2008 on the grounds that it would be out of keeping with its surroundings on Cooden Avenue, that it would compromise the future development of land to the south of the site, and that it would provide unacceptable living conditions for future occupants, due to rooms having a poor outlook.

20141374 – Conversion and extension of garage to form one dwelling. Withdrawn in September 2014. This proposal was for a single-storey bungalow which would have been larger than the current proposal, and which would have extended forwards of the building line on Cooden Avenue.

20152362 - Extension and alterations to detached garage at rear of house to form residential annexe. Approved, subject to a condition that the use of the annexe remain incidental to the use of the main property.

(A number of applications for extensions to the main house have also been approved)

### **The Proposal**

This application proposes the construction of a 7.2m wide by 5.1m deep extension at the eastern side of the garage, increasing its footprint by approximately 125%. This extension would have a dual-pitched roof whose ridge would be the same height as that of the existing garage and it is to be constructed using brickwork matching the existing building for the walls, with tiles for the roof. Other alterations would adapt the enlarged building to create a new, two-bedroom detached dwelling, which would have its own access from Cooden Avenue, making it independent of 7 Braunstone Avenue.

The proposal is an amended version of the one originally submitted, with minor changes made to the vehicle access in response to the concerns of officers regarding highway safety.

### **Policy Considerations**

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

#### National Planning Policy Framework (February 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 108 - In assessing applications, it should be ensured that appropriate opportunities to promote sustainable transport modes have been taken up, and that safe and suitable access to the site can be achieved for all users.

Paragraph 109 goes on to state 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 117 requires planning policies and decisions to promote the effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 127 states that planning should ensure that developments are visually attractive, with a high standard of amenity for existing and future users.

Paragraph 130 goes on to state that permission should be refused for development of poor design, taking into account any local design standards or style guides in plans or supplementary planning documents.

Paragraph 163 – states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

#### Supplementary Planning Documents

Leicester City Council: Residential Amenity (February 2008)  
City of Leicester Local Plan, Appendix 01 Parking Standards

#### **Consultations**

Traffic and Travel Planning – Had no objection, but requested the attachment of conditions relating to the construction of the vehicle access onto Cooden Avenue, and reinstatement of the pedestrian footpath at the site of the existing access.

Severn Trent Water (Drainage) – No response received.

LCC Trees Advice – Noted that the proposal would require the removal of a couple of trees, but given that neither of these merited protection with a TPO, had no objections.

Local Lead Flood Authority – Noted that the site is at low risk of fluvial and pluvial flooding, but that it is in a Critical Drainage area, so measures to limit surface water runoff should be considered.

#### **Representations**

14 objections were received from the residents of 9 nearby properties, giving the following grounds:

- Increased traffic congestion on Cooden Avenue, with consequent harm to road safety (especially for children playing in the cul-de-sac), and increased traffic noise, pollution and light pollution.
- The vehicle access through a closed boarded fence would create a highway safety hazard for pedestrians.
- It would exacerbate existing parking problems on Cooden Avenue, particularly on football match days. This might lead to further loss of front garden space due to people creating more on-site hardstanding.
- Concerns about access for emergency vehicles, bin lorries and delivery vehicles.
- Harm to the character of Cooden Avenue through making it less open and more built up on one side, and creating an overbearing impact.



- 
- Harm to the character of Cooden Avenue, because the dimensions, design and materials are out-of-keeping with that of other houses in the street.
  - It would reduce green space to an unacceptable level.
  - Harm to the privacy of neighbours, including from any future removal of the closed boarded fence.
  - It would be an overdevelopment of a site that is too small for a house.
  - It would set a precedent, leading to further development of the land on the southern side of Cooden Avenue, increasing density and reducing living standards.
  - Harm to the value of nearby houses (not a material planning consideration).
  - Building on garden land could lead to increased surface water run-off and flooding.
  - The construction of the existing garage would not be adequate for a dwelling.
  - Concerns that the details provided of the trees on the site are incorrect.
  - Concerns about some details provided on the application form (not identified as market housing, loss of non-residential floor space not included). No design and access statement has been provided. Lack of information on provision of gas, water, electricity and sewage services.
  - Concerns that the new dwelling would be rented out or sold independently of 7 Braunstone Avenue.
  - It would compromise future development of land to the rear of nearby houses on Braunstone Avenue, to the south of the site.
  - Objecting to the fact that the current application is different from the previous application (for an annexe).
  - Harm to wildlife, bird life and the environment through building on the open garden land at the rear of Braunstone Avenue.
  - The building might be used for residential care in future, exacerbating congestion, parking problems and with vehicle movements during the night, in a way that would be inappropriate for a residential area.
  - There is an absence of overriding need, since this proposal is not needed for housing dependent relatives.
  - The condition attached to application number 20152362, restricting it to incidental use as an annexe was highlighted, stating that this was required to protect the amenity of neighbours.
  - The new dwelling would be unduly close to 18 Cooden Avenue.
  - It would harm the green and lush vista seen from front windows of houses on the northern side of Cooden Avenue.

## **Consideration**

### Principle of development

Policy CS06 of the Leicester Core Strategy (2014) undertakes to meet the City's housing requirements over the plan period through (amongst other sources) limited housing growth within established residential areas and small housing infill and conversion schemes.

Policy CS08 seeks to ensure that suburban areas continue to thrive and recognises that small scale infill sites can play a key role in the provision of new housing, but states that backland development should be compatible with the locality and any neighbourhood buildings and spaces in terms of design, layout, scale and mass. Policy CS08 goes on to resist development on garden land where it would have an unacceptable impact upon levels of biodiversity in the neighbourhood and states that, in areas of high architectural quality or significant local distinctiveness, the Council will seek to ensure that any new development is sympathetic to its specific location.

The site is located in a primarily residential area, and there are no site specific designations or constraints to indicate that a residential development would be inappropriate or inherently harmful. Given the above policy context and having particular regard to the City's current housing supply position, I conclude that the development of this particular site for a two-bedroom dwelling is acceptable in principle, subject to consideration of the impacts and qualities of the proposed development.

### Design / Character and Appearance

Firstly, I note that the proposal under consideration is generally similar in its appearance to the annexe previously approved under application 20152362. The main differences being that the current proposal would be approximately 1.5m wider, and there would be two extra windows in the front elevation. Although it differs in its scale, design and materials from the existing houses in Cooden Avenue, the same could be said of the existing garage on the site. Overall, due to its location, size and design, I consider that it would form an acceptable feature within the surrounding suburban street scene, and that it would not harm the character and appearance of the area.

### Living conditions (*The proposal*)

The proposed new dwelling would have an internal area of approximately 47m<sup>2</sup>, which I consider to be an acceptable size. All of the habitable rooms in the proposed new dwelling would be sufficiently large, would receive acceptable amounts of natural light, and would have a satisfactory outlook.

The siting of the proposed new dwelling within its plot would be unusual, as it would be set back adjacent to the southern boundary. This leaves space available at its eastern side (occupied by the driveway / parking area) and at its front (occupied by the garden area). On the proposed site plan, the main garden is shown as being in the north-western corner of the site. I estimate the size of this area to be approximately

70m<sup>2</sup>. This is slightly less than the 75m<sup>2</sup> recommended in the supplementary planning guidance, but it is close enough that I do not consider that this provides sufficient grounds for a refusal.

The arrangement of the site, with the amenity space at the front, is not ideal, but the closed boarded fence to be retained across most of the front of the site would provide visual screening from the ground floor windows of the houses opposite, and from people passing on the public highway at the front. If need be this could be improved by installing fencing or screening vegetation in between the driveway and the garden area. As regards overlooking from the first floor windows of the houses on the opposite side of Cooden Avenue: these would be more than 21m away from the windows in the front of the dwelling, and so the arrangement would not be dissimilar to the existing situation on Cooden Avenue. There would also be approximately 17m separation from the closed boarded fence at the front boundary to principal room windows of dwellings opposite the site, so I consider that the privacy afforded to the amenity space would also be satisfactory.

Core Strategy policy CS03 requires new development to meet the highest standards of accessibility and inclusion, based on inclusive design principles. Core Strategy Policy CS06 seeks to ensure that all new housing units are, where feasible, designed to 'Lifetime Homes' standards. The Lifetime Homes Standards have now been replaced by the requirements of the optional Building Regulations Standard M4(2) (accessible and adaptable dwellings). In view of the above, I consider that it is reasonable and necessary to secure compliance with Building Regulations Standard M4(2) as a condition of planning permission.

#### Residential amenity (of neighbouring properties)

Saved Local Policy PS10 sets out a number of criteria to be assessed when assessing the impact of development on residential amenity.

The extension to the existing garage would be built close to the southern boundary of the site, and would sit adjacent to the very rear of the back garden belonging to no. 9 Braunstone Avenue (which contains an outbuilding). Given that the proposal is single storey, I do not consider that it would be overbearing, or that loss of light to this part of the adjacent back garden would be unacceptable. Similarly, although it would also be close to the side of 18 Cooden Avenue it would sit next to the blank side gable of this neighbouring property.

As regards potential amenity impacts on the facing properties on the north side of Cooden Avenue: given the fact that it would be single storey, and set back from these by just over 21m, I do not consider that it would be overbearing, or cause an unacceptable loss of light. The separation distance is just over 21m, so I do not consider that it would be detrimental to the privacy afforded to these neighbouring dwellings.

Although the proposal would result in a reduction of the amenity space available to 7 Braunstone Avenue, it would still retain a back garden which would be well in excess of 100m<sup>2</sup> in area, meeting the standard for houses with 3 bedrooms or more.

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Given the limited size of the amenity space available to the new dwelling, and its proximity to boundaries with neighbouring properties, I consider that it is appropriate to remove permitted development rights for classes A, B and E (i.e. to construct extensions, roof extensions and outbuildings) to protect the living conditions of the new dwelling, and the residential amenity of neighbours.

#### Waste storage and collection

Space is available at the front and side of the house for bin storage.

#### Highways and Parking

The vehicle access from Cooden Avenue would be 4m wide, and there are 2m by 2m visibility splays on either side, ensuring that pedestrians passing on the footpath can be seen from vehicles leaving the site.

Appendix 01 of the Local Plan (2006) sets out guideline standards for car parking in new developments, with a maximum of 2 spaces for 2 bedroom dwellings recommended for this part of the city. Local Plan Policy AM12 gives effect to the above car parking standards. The proposal provides two parking spaces oriented at 90° to the kerb line, and with a width of approximately 3m (per space) and a depth of approximately 5.6m, complying with the minimum Highway standards. Despite the removal of the garage, the host property can also still provide 2 off-street parking spaces at the front of the house.

The introduction of a new dwelling to Cooden Avenue would be likely to increase vehicle traffic to some degree. The site is near the end of a cul-de-sac where both vehicle speeds and traffic volumes are likely to be low. Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe. I note that the highway authority have not raised any objections to the development, and so in view of all of the above, and subject to a satisfactory access being secured by condition, I do not therefore consider that there would be an unacceptable impact on highway safety. Likewise, the change from 16 to 17 dwellings using this cul-de-sac represents an increase of just 6.25% in percentage terms, so I do not consider that the cumulative impact would be severe.

#### Drainage

Given that the proposal is for a new dwelling, created by increasing the footprint of the existing building by more than 100%, and located in a Critical Drainage Area, I consider that it would be reasonable to require the use of a Sustainable Drainage System (SuDS). No details of the proposed drainage have been provided with the application, but this can be secured using a Pre-Commencement condition.

#### Nature conservation/Trees/landscaping

As noted in the comments from the Council's Trees Advice section, the proposal would require the removal of two trees from the site. However as these are neither TPO

protected, or of a standard that would justify the imposition of a TPO (Tree Protection Order), I do not consider that the impact on trees is sufficient to justify a refusal.

#### Other matters

A number of other issues have been raised by neighbours. Considering these individually:

- Given that there is satisfactory on-site parking, I do not consider that the proposal would hamper access for larger vehicles such as those used by the emergency services, bin lorries, delivery vehicles etc.
- Although the proposal would result in a reduction in private green space, this would be within acceptable limits, and for the same reason it is not considered to be an overdevelopment of the site.
- Although the proposal would result in a small part of the street being built up on both sides, rather than remaining open, I do not consider that this change would be unacceptable in its visual impact.
- The removal of part of the closed boarded fence would reduce visual screening, and might have some potential impact on the privacy of neighbours. However, given the public highway intervening between the site and facing properties on Cooden Avenue, I consider that in practice its impact would be minimal, and that it does not therefore provide grounds for a refusal.
- Concerns have been raised that the proposed development would set a precedent, leading to other development on land to the rear of Braunstone Avenue. Given that planning applications are each considered on a case by case basis, and assessed on their merits, I do not consider this provides a valid planning reason for a refusal of permission.
- Potential harm to property values is not a planning matter.
- Whether or not the existing construction on the site is of a suitable standard for human habitation is a matter for Building Control rather than a planning matter.
- There have been some concerns about the information provided on the application form and plans, and the fact that no design and access statement has been provided. A Design and Access Statement is not required for a single dwelling (unless it is in a Conservation Area). Following a visit to the site, the accuracy and completeness of the information provided has been assessed, and sufficient information is available for a decision to be made.
- The application is for a new dwellinghouse, and so the potential for it being sold or rented separately to 7 Braunstone Avenue is understood, and the proposal has been assessed with the assumption that this is likely to occur.
- Previous applications for a new dwelling on the site have been refused on the grounds that they would compromise future development of land to the rear of nearby houses on Braunstone Avenue. However, this grounds for refusal relates to former Local Plan Policy H14 dealing with backland development, which has not been saved, and which is therefore no longer part of the development plan.
- Although the current proposal differs significantly from the one put forward under application number 20150383 (and from previous applications made for this site), the applicant is entitled to make a number of different planning applications for the same site, which must then be considered individually by the Local Planning Authority, according to their merits.

- Although it is possible that building on the site would have a minor harmful impact on birds and wildlife, this is garden land with no TPO-protected trees on site. The owner does not therefore require permission to remove trees and shrubbery, or to introduce hard standing, and can construct outbuildings on up to 50% of the garden without needing to apply for planning permission. I do not therefore consider that this provides grounds for a refusal.
- Use of the site for residential care would fall under use class C2 (Residential Institutions) rather than C3 (Dwellings). A planning application for a change of use would therefore be required, and the potential impacts of this particular use of the site would be assessed at that stage.
- Although this proposal is not for an annexe to provide care for a relative, the development of garden land to provide a new dwelling is not automatically unacceptable.
- Although a condition was attached to previous planning permission number 20152362, restricting use of the enlarged garage to use as an annexe, and giving residential amenity as the reason, this did not refer to the amenity of neighbours (as its impact was considered acceptable). This application is for a new proposal, which differs in its design and in the arrangement of the site. The living conditions of future occupants are therefore significantly different, and it has therefore been assessed on its own merits.
- Although the proposed new dwelling would sit close to number 18 Cooden Avenue, it would not come closer than the existing garage. It would sit adjacent to the blank end gable of this neighbouring property, and its impacts on the residential amenity of neighbouring properties has been assessed above.
- Although the proposal would affect the views from the front windows of facing properties on Cooden Avenue, the protection of private views is not a valid planning matter, and so this does not provide grounds for a refusal.

### Conclusion

The proposed development is acceptable in principle and is in compliance with local and national policies. It would make a modest but nevertheless important contribution to the City's housing supply. The impact upon the occupiers of neighbouring properties and upon the character and appearance of the area would be acceptable. The new dwelling would secure satisfactory living conditions for future occupiers. The parking and access arrangements would be satisfactory. No trees of high amenity value would be adversely affected. Sustainable drainage details for the development can be secured as a condition of planning permission.

I therefore recommend that this application be APPROVED, subject to the following conditions:

### CONDITIONS

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

2. Before the development is begun, the materials to be used on all external elevations and roofs shall be submitted to and approved by the City Council as local planning authority. (In the interests of visual amenity, and in accordance with Core Strategy policy CS3. To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).
3. Prior to the commencement of development full details of the Sustainable Drainage System (SuDS) together with implementation, long term maintenance and management of the system shall be submitted to and approved by the local planning authority. No flat shall be occupied/the use shall not commence until the system has been implemented. It shall thereafter be managed and maintained in accordance with the approved details. Those details shall include: (i) full design details, (ii) a timetable for its implementation, and (iii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the system throughout its lifetime. (To reduce surface water runoff and to secure other related benefits in accordance with policy CS02 of the Core Strategy. To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).
4. Prior to the commencement of development details of foul drainage, shall be submitted to and approved by the local planning authority. No property shall be occupied until the drainage has been installed in accordance with the approved details. It shall be retained and maintained thereafter. (To ensure appropriate drainage is installed in accordance with policy CS02 of the Core Strategy).
5. No part of the development shall be occupied until the following works have been carried out in accordance with the written details approved in advance by the City Council as local planning authority: (a) footway crossing(s) at each vehicular access; (b) alterations to footway crossing(s); (c) reinstatement of any redundant footway crossings and/or damaged or altered areas of footway or other highway. (To ensure a satisfactory means of access to the highway, and in accordance with policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS3.)
6. No part of the development shall be occupied until the 2 metre by 2 metre sight lines on each side of the new 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 CS03.)
7. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, or any order amending or revoking and replacing that Order with or without modification, no development that would otherwise fall with Classes A, B and E of Part 1 (of Schedule 2) of that Order shall be carried out within the curtilage of the dwellinghouse hereby approved without planning permission having first been obtained from the local planning authority. (To ensure that any further development at the site does not

unacceptably affect the privacy and amenity of the neighbour occupiers and the character and appearance of the area, and to ensure that adequate amenity space for future occupiers of the development is retained on the site, in accordance with Policy CS03 of the Leicester Core Strategy (2014) and saved Policy PS10 of the Local Plan (2006)).

8. The dwelling and its associated parking and approach shall be constructed in accordance with 'Category 2: Accessible and adaptable dwellings M4 (2) Optional Requirement. On completion of the scheme and prior to the occupation of the dwelling a completion certificate signed by the relevant inspecting Building Control Body shall be submitted to the City Council as local planning authority certifying compliance with the above standard. (To ensure the dwelling is adaptable enough to match lifetime's changing needs in accordance with Core Strategy policy CS6)
9. This consent shall relate solely to the amended plans ref. no. 3102-02-A1 Rev e received by the City Council as local planning authority on 17th June 2019. (For the avoidance of doubt.)

#### NOTES FOR APPLICANT

1. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received. This planning application has been the subject of positive and proactive discussions with the applicant during the process (and/or pre-application).  
The decision to grant planning permission with appropriate conditions taking account of those material considerations in accordance with the presumption in favour of sustainable development as set out in the NPPF 2019 is considered to be a positive outcome of these discussions.
2. Condition 7 refers to alterations/extensions and outbuildings that you are normally allowed to carry out to houses without planning permission. In this case the City Council wants to be able to control alterations/extensions/outbuildings to preserve the appearance of the property, protect the living conditions of future occupants or protect the amenities of neighbouring properties. You should contact the City Council (telephone (0116) 454 1000) if you are considering such works.
3. To meet condition 8 all those delivering the scheme (including agents and contractors) should be alerted to this condition, and understand the detailed provisions of Category 2, M4(2). The Building Control Body for this scheme must be informed at the earliest opportunity that the units stated are to be to Category 2 M4(2) requirements. Any application to discharge this condition will only be considered if accompanied by a building regulations completion certificate/s as stated above.

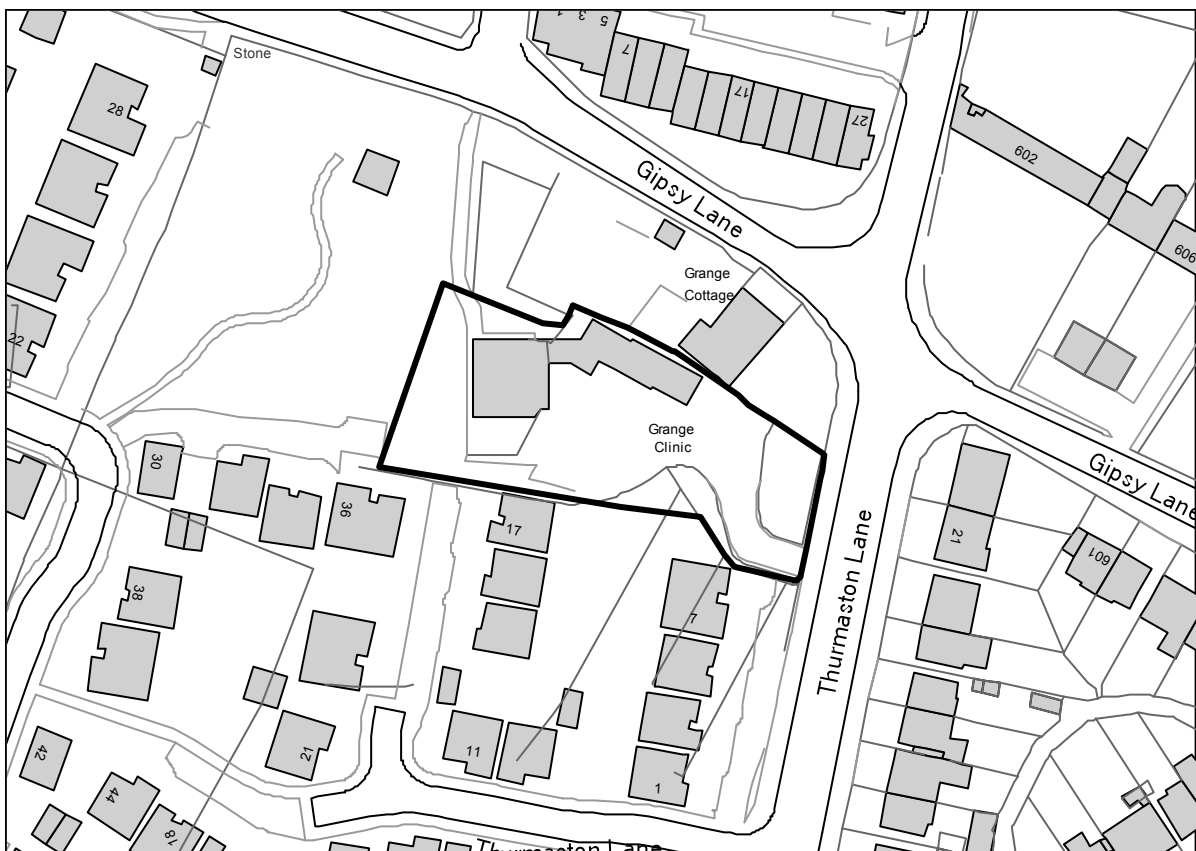


**Policies relating to this recommendation**

- 2006\_AM12 Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01.
- 2006\_PS10 Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
- 2014\_CS02 Development must mitigate and adapt to climate change and reduce greenhouse gas emissions. The policy sets out principles which provide the climate change policy context for the City.
- 2014\_CS03 The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'.
- 2014\_CS06 The policy sets out measures to ensure that the overall housing requirements for the City can be met; and to ensure that new housing meets the needs of City residents.
- 2014\_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.



<b>Recommendation: Refusal</b>	
<b>20190692</b>	<b>16 THURMASTON LANE</b>
Proposal:	CONSTRUCTION OF TWO STOREY DETACHED BUILDING WITH SINGLE STOREY LINK TO FRONT AND SIDE OF EDUCATION FACILITY (CLASS D1) ALTERATIONS
Applicant:	DARUL ARQAM EDUCATIONAL TRUST
View application and responses	<a href="http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190692">http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190692</a>
Expiry Date:	22 August 2019
PK	WARD: Troon



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## Summary

- Reported because the Head of Planning considers that the application should be considered by the Planning Committee;
- A total of 76 objections received raising concerns about noise and disturbance, highways safety, parking, design, impact on residential amenity;

- A total of 372 letters of support received stating the benefits to the community, types of activities provided, use of the site by different age groups and resolutions to the concerns raised by objectors.
- The main issues are the principle of development, impact on Grade II listed building, character of Conservation Area and design, amenity and privacy, parking and highways safety, access, trees and drainage;
- Recommended for refusal.

### **The Site**

The site comprises a detached two storey grade II listed building. The building has previously been extended with single storey pitched roof extensions projecting into the car park of the site. The original building, dating from late 18<sup>th</sup> Century, was formerly known as Humberstone Grange Clinic which links back to its historic use as part of the Towers Hospital, now redeveloped.

The building was listed in March 1975. The listing describes the building as a red brick house. The listing goes on to describe the building as 'Stucco band and cornice and small parapet. Slate roof with gable ends. *Two storeys. Three windows, sashes, first floor with glazing bars. Modernised entrance and ground floor windows, central round arch double recess with fanlight and flush panelled doors with reeded moulding. Including adjoining small C19 greenhouse attached to south end, cast-iron, round arched with moulded decoration to end cast-iron members.*' The greenhouse has been removed as detailed in the background information below.

The buildings front elevation faces the open space to the west which is accessed off Gipsy Lane to the north and Bovinger Road to the south-west. The site is accessed off Thurmaston Lane which appears to form the main access into the building.

The site is located within the Old Humberstone Conservation Area and within a Critical Drainage Area. The site is within an Archaeology Monument which is described as a late C18<sup>th</sup> former farmhouse with a C19<sup>th</sup> conservatory.

The site is surrounded by a number of mature trees; however none of these are subject to a Tree Preservation Order.

### **Background**

The previous clinic was within Class D1 use. The current use also falls within Class D1.

20190693 – Construction of two storey detached building with single storey link to Grade II listed building (Class D1) – this is the associated listed building application which is also on this agenda.

### **The Proposal**

The proposal comprises the construction of a flat roof two storey building to the side (south) and front (east) of the listed building. The building would have a footprint

measuring 24.6 metres in depth and 8.7 metres in width. The building would be attached to the side (south) elevation of the grade II listed building by a single storey link extension with a footprint measuring 2.2 metres in width and approximately 3 metres in depth. The height of the building would be approximately 6.8 metres which is just short of the eaves height of the host building.

Although the development is described as an extension to the host grade II listed building, it is only an extension by virtue of the 'link' connection. There is no internal access between the host and proposed building.

The link would be situated approximately 9 metres from the front elevation of the host building whereas the two storey element would be set-back by 6-8 metres from the same façade by virtue of its angled siting.

The building would follow the side boundary of the site and retain a separation distance of 3 metre from the 2 metre high timber fence shared with adjacent properties. The siting of the building would create an internal courtyard within the site and the building's north elevation at the ground floor would comprise bi-folding doors and at first floor large elements of glazing.

The external finishes of the building would include the single storey link to be finished with dark grey cladding and the two storey element being a mix of vertical timber cladding, facing brickwork panels with anodised aluminium window and door frames. The proposal would provide a multi-use space to accommodate the facilities provided by the current users over two floors.

Part of the footprint of the proposed two storey building and the resultant site layout would result in the loss of some car parking spaces currently available immediately to the front of the host building. A travel plan has been submitted in support of the application. The number of vehicle parking spaces within the site are not identified on the plans but it appears that 8 spaces could be accommodated.

There are two group trees along the southern boundary of the site which are proposed to be removed to facilitate the development. It is also indicated that a Pine Tree to the north of the host building is also proposed to be removed; however this is not close to the proposed building.

For avoidance of doubt, amended plans have been submitted only to supplement the submitted plans to provide further clarity on the layout and use of the building.

## **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. Paragraph 11 contains a presumption in favour of sustainable development.

Paragraph 92 advises to provide the social, recreational and cultural facilities and services the community needs, planning policies and decision should (d) ensure that

established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community, amongst other criteria.

In making an assessment Paragraph 108 of the NPPF 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 advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts of development would be severe.

Section 12 of the NPPF focuses on requiring good design. Paragraph 124 describes good design as a key aspect of sustainable development.

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<sup>46</sup>; 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.

When determining planning applications for development within flood risk areas paragraph 163 requires local planning authorities to ensure that flood risk is not increased elsewhere.

Section 16 places and emphasis on the desirability to sustain and enhance significance of Heritage Assets. Paragraph 184 states that 'these assets (heritage assets) are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations'

Paragraph 189 states that the LPA should require an applicant to describe the significance of any heritage assets affected, including any contribution made to their setting. It advises that the level of detail should be proportionate to the assets' importance. It goes on to state that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Paragraph 192 requires local planning authorities to take into account the following:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 196 states that where development proposals of less than substantial harm to the significance of a designated Heritage Asset, this should be weighed against the wider public benefits of the proposal. Paragraph 200 requires local planning authorities to look for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

### Development Plan Policies

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

### Supplementary Planning Documents

Residential Amenity SPD  
Appendix 01 – City of Leicester Local Plan  
Old Humberstone Conservation Area Character Appraisal

### **Consultations**

Local Highways Authority: Object on the basis of unacceptable impacts on highways, pedestrian and cycle safety and these issues are addressed within the consideration

Travel Plan Co-ordinator: Submitted Travel Plan is unacceptable as details such as number of attendees to the site at any given time, times of prayer and education, survey of transport modes, photos, parking strategy etc need further adequate assessment and these issues are addressed within the consideration

Trees and Woodlands: No objection to the loss of the two group trees; however no justification on the loss of the Pine Tree to north

Lead Local Flood Authority: No objection subject to conditions requiring the submission of a Drainage Strategy and SuDS scheme

Pollution (Noise): No objection

Conservation Advisory Panel (19<sup>th</sup> June 2019): The Panel's discussion began with unanimous criticism in regards to the spatial and visual relationship of the extension to the Grade II Listed asset on site. Although the contemporary design was endorsed, the overwhelming solid to void ratio associated with substantial areas of timber cladding were evaluated unfavourably. A lighter aesthetic of the two-storey extension was recommended, as was an improved spatial relationship with the host building. The members also commented on the poor execution of the drawings submitted, impeding the legibility of the proposal. Due to the above, an amended set of more detailed drawings with 3D visualizations were requested.

Although the principle of a two-storey extension of comparable scale was not objected to, it was concluded that the current design was not acceptable and needed a much stronger architectural response. The proposal should be subject to significant amendments, to ensure a more successful contextual response.

City Archaeologist: No objection subject to conditions requiring the submission of a programme of archaeological work and site investigation prior to commencement of development.

Georgian Group: Whilst the Group would not wish to object in principle to a new structure on this approximate site, we have considerable concerns regarding the scale and massing of the building proposed. Whilst the scheme's architect has gone to considerable lengths to mitigate the impact of the proposed new range on the setting of the former house's principal elevation, the proposed development would still cause a degree of harm to the listed building's setting. Paragraph 194 of the NPPF states that 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification...'. No such clear and convincing justification has been provided for the work proposed. It is not clear from the documentation available whether the proposed new structure will provide all of the facilities needed by the applicant in the medium to long-term. What is clear is that the site is reaching the limits of the development which can be achieved without causing serious harm to the listed building's setting.

## **Representations**

Objections have been raised from 36 city addresses which raise concerns on the following basis:

- Highways safety, parking management, inconsiderate parking, traffic & congestion, poor quality of the Travel Plan, no pedestrian crossings near the school, volume of traffic from all developments in the area and loss of parking
- Loss of trees



- Impact on residential amenity in respect of daylight, overshadowing, light pollution, noise pollution and air pollution from traffic
- Impact on listed building, visual impact and character of the Conservation Area from all developments, over development of the site
- No formal change of use application, behaviour of attendees, health & safety, fire safety and access for emergency vehicles
- Insufficient information received to assess the full impact of the proposed development
- Consultation of the application not wide enough

A petition has also been received with five signatures. This has been included within the above count.

Objections from two city addresses have been withdrawn and for avoidance of doubt they have not been included in the above count.

Representations of support have been received from 286 city addresses which identify the following issues:

- Need of community use and improved facilities on site
- The proposal is well-designed
- Additional staff have been hired to help with parking issues
- The site is regularly used by all members of the community regardless of age and gender
- Activities provided on site are beneficial to the community in terms of skills, education and also providing a space for youth
- The proposal will resolve the issues around space and will alleviate existing issues around noise and parking
- Marquee on site was only temporary and now removed
- Travel plan submitted to help with parking and congestion
- New initiatives are being undertaken to resolve issues around parking, traffic and congestion
- The proposal provides a safe space for activities
- Activities provided on site range from Scouts, Jujitsu, CPR, baby massaging to meeting with other women

Representations of support have been received from a further 9 addresses from outside of the city.

Following a period of re-consultation an additional 40 objections from city addresses and 86 representations in support of the proposal have been received. These have not raised any new issues for consideration.

A letter of objection has been made by MP Keith Vaz voicing concerns of local residents and asking for the decision to be deferred following the submission of additional information.

## **Consideration**

The main issues in this case are: the principle of the proposed development; the integrity of the listed building; the character of the conservation area and design; archaeology; the amenity and privacy of neighbouring occupiers; highways and parking; the impact upon trees; and sustainable drainage.

### Principle of Development

The site was historically part of the Towers Hospital site which has now been re-developed. The site has been used as (and also formerly known as) a Clinic which falls within use class D1. The current use as an education centre (including for associated place of worship) also falls within the same use class D1 and therefore no formal change of use application is required.

Policy CS8 states that:

*The provision of new community facilities will be supported where they meet the identified needs of local communities and have a viable long term management and funding proposal. Where there are increased demands on existing facilities as a result of development, the enhancement of facilities or suitable additional provision will be sought.*

Policy CS16 states that development should

*...create an environment for culture and creativity to flourish by (inter alia):*

- Creating or retaining cultural facilities and opportunities, including places of worship, cemeteries and crematoria, that help people who live here to develop a sense of belonging, to value the cultural diversity and heritage of our City and become more confident and proud of Leicester, seeing it as a good place to live;*

The submitted Design & Access Statement advises *'the proposed two storey extension to the south of the site is proposed as a multi-use space to more suitably accommodate the wide and varied range of activities that the Trust oversee. Clear open spaces will allow adaptation to suit a number of differing activities'* (Page 9). I consider the principle of extensions to this use on this site is acceptable subject to other considerations.

### Listed Building

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest. Policy CS18 of the Leicester Core Strategy (2014) commits the Council to protect and seek opportunities to enhance the historic environment including the character and setting of designated heritage assets.

The site is a Grade II Listed building (former Grange Clinic) adjacent to the Grade II Listed Grange Cottage and located within the Old Humberstone Conservation Area. There is a range of Grade II Listed and Locally Listed heritage assets located in close proximity to the north and east of the site. The plot is dominated by the designated 18<sup>th</sup> century brick dwellinghouse, accompanied by subservient, later additions to north. The 'polite' façade of the buildings faces the open green space to the west which provides the most prominent visual façade of the building. Part of the north and south boundaries of the site are characterised with mature trees which screen the site from wider residential development of the old Towers Hospital.

The proposal is for a two-storey extension to the immediate south-east of the Grade II Listed building, within its curtilage, with a single storey link to the designated property. A Design and Access Statement submitted as part of the application identifies the designated status of the property and the locality under consideration.

The proposed development would be situated in an area which is highly prominent in creating the setting of the building. This space is currently not built on and comprises some hardstanding used as informal parking with two groups of trees. There is a small stone wall to the side of the listed building.

The proposed development is two storeys in height and of a footprint significantly larger than the primary 18<sup>th</sup> century building. The scale and mass of the development is considered inappropriate and excessive and one which would be visible from not only within the site but also from views from the south and west. The proposal would not only diminish the visibility of the heritage asset but also erode the dominant nature of the property on site.

The single storey link creates an awkward conjunction between the two storey bulk of the proposal and the host building. There has been no rationalisation of the location and alignment of the single storey link which provides no internal links between the existing and proposed built form. In terms of its functionality and appearance the development appears independent of the heritage asset and would not relate well to the listed building.

In terms of design and materiality the design approach of a modern addition on site is the most suitable choice. However the excessive scale and mass of the building combined with the use of timber cladding and brick work to the external finishes is considered not to maintain or enhance the heritage assets itself or enhance the setting of the same. The asymmetric and mis-matching window composition further makes the development appear at odds within its surroundings.

The proposed development would block views to the 18<sup>th</sup> century heritage asset from the south with an almost wholly blank elevation. The scale, mass and height of the building would fail to preserve the setting of the Grade II listed building which is defined as a free-standing dwelling house. Further to this the development would erode the visibility of the building and thus diminish its importance.

The proposal, for the construction of two and single storey extensions to the Grade II listed building would result in substantial harm to the significance of the listed building. The proposal would erode the character of the heritage asset and diminish its visual

prominence thus harming the setting of the listed building. As such, the works would not preserve the listed building's special interest and would not protect the character of this designated heritage asset, contrary to Policy CS18 of the Leicester Core Strategy (2014).

### Character of Conservation & Design

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. As noted above, Policy CS18 of the Leicester Core Strategy (2014) commits the Council to protect and seek opportunities to enhance the historic environment, and to support the sensitive reuse of high quality buildings and spaces.

The Old Humberstone Conservation Area Character Appraisal identifies the key areas within the heritage asset and identifies the pressures within the area.

The application site lies to the west side of the Conservation Area and is situated along the southern boundary of the same. This part of the Conservation Area is more urban compared to the northern open fields; however the open leafy character is retained in this location by virtue of the mature trees within the immediate street scape and also the open green space to the west of the site. The urban grain in this location is looser than the core Humberstone Village to the east.

The proposed development would be set immediately adjacent to the heritage asset albeit with a set-back of approximately 6-8 metres from the west elevation of the grade II listed building. The building, by virtue of its height, scale and massing would dominate views from the south and west to the host building and the Conservation Area itself. The proposal would result in the loss of trees along the Conservation Area's southern boundary and would replace them with built form creating a visual 'wall' especially when viewed from the south. I consider the proposal would therefore result in significant detriment to the Conservation Area.

The proposed building would appear awkward by virtue of its external finishes and height. I acknowledge that the height of the building has been lowered to below the eaves height of the host grade II listed building; however the building would be between the heritage asset and residential properties to the south. The two storey building form would appear cramped and would fail to relate positively to buildings on either side.

The scale and mass of the building would, when viewed from the south, introduce a significantly excessive blank wall. This elevation is visible from the public realm of Hadstock Close over the boundary fences. I consider the mass of the building combined with its siting within the Conservation Area represents a poor and unsympathetic design.

It is acknowledged that the proposal is functional in terms of proposing additional floor space for the activities on site. However as an extension to a heritage asset I consider the proposal fails to appear subservient or well-designed within the site's context. The layout itself fails to provide access into the host property to which it is adjoined to by a

single storey 'link'. This is considered not to illustrate a natural extension but an awkward construction of a two storey building within the site.

The resultant site layout would provide a 'courtyard' enclosed on three sides and pinched towards the access point. The layout of the building follows the site boundary and the single storey extensions to the north of the site; however the excessive footprint and height of the building when viewed from the Thurmaston Lane entrance would appear cramped and result in an overdevelopment of the site. The introduction of two storey flat roof development on site would appear at odds with prevailing design of development in the area and would fail to appear and function as a sympathetic extension within the site.

The site, as noted above, is a former farmhouse. The scale of the current extensions on site are sympathetic to the residential scale of the host property by virtue of the single storey height, pitched roof design and relatively narrow footprint. The proposed development in contrast is representative of an unsympathetic two storey built form which would have a larger footprint than the host grade II listed building. The building would appear unduly dominating and would detract within this setting.

The proposed development is representative of poor unsympathetic design which would add a visual wall in this location of the Conservation Area. The proposal fail to appear as an extension by virtue of its excessive footprint, height, scale, mass and materials and would not have a positive impact on the character of the site and wider area. The proposal is therefore considered to be contrary to paragraphs 127, 130 and 192 of the NPPF and Core Strategy policies CS03 and CS18.

### Archaeology

The site is located within the historic medieval core of Humberstone Village and therefore it is necessary for a programme of archaeological work is required prior to commencement of development. Conditions could be recommended if the proposal was considered acceptable in this respect, subject to which there are no objections on archaeology grounds.

### Residential Amenity

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

### *Grange Cottage*

This property is situated to the north of the site and its side (south) elevation faces the site. The north elevation of the proposed development would comprise large windows. The separation distance between the north elevation of the building and the site's north boundary would be 15 metres. As a building in non-residential use I consider any impacts of overlooking would not be significantly harmful. The separation distance from the new openings would be far greater than the window within the host building. In

terms of daylight, outlook, overbearing and overshadowing I consider by virtue of the siting of the two storey element to the south of the site, it would have minimal impact in these respects.

#### *Land to rear of Grange Cottage*

This site to the north is subject to a planning application (20182053) for the construction of a dwelling. I consider by virtue of the separation distance between the proposal and this site to the north there would be minimal harm to the amenities of the occupants of this site.

#### *Thurmaston Lane*

Properties situated on the east side of Thurmaston Lane would maintain a separation of at least 45 metres from the proposed development. As such I consider this distance would be sufficient to ensure no significant harm to the amenities of these occupiers.

#### *Hadstock Close*

The proposed built form would be situated to the north of the gardens of no.7 and no.17 of Hadstock Close. The proposed south elevation of the building has no first floor windows and therefore I consider there would no significant harm in terms of privacy. The building would be separated from the common boundary by approximately 3 metres and would be sited to the north and therefore I consider the building would not adversely impact daylight to or outlook from principal room windows.

The proposal includes the loss of trees in this location which would be replaced with the proposed two storey building. Although this would alter the view towards the site (assessed in character section above), I do not consider the building would appear visually overbearing on the rear gardens of the properties to the site by virtue of the flat roof design of the property.

#### *Bovinger Road*

Properties facing the open green space would also have views of the proposed development; however the development would be at 90 degrees from the houses 30, 32, 34 and 36 Bovinger Road. As such I consider any impacts of the development on these occupants would be minimal.

The properties facing the west side of the open space would be a sufficient distance from the building to ensure no significant detriment in terms of daylight, outlook, privacy, overbearing and overshadowing.

#### *Other Amenity*

Concerns regarding light pollution have been raised however no details of external lighting have been submitted with the application. I consider this could be adequately secured by way of condition.

Concerns regarding noise and disturbance from the site and the proposed development have been raised. Environmental Health Officers have advised no formal complaints have been received regarding the existing use of the site and late night noise. The proposed development would not necessarily result in a greater number of users of the site; however it may mean that a greater number of people attend the site at various times of the day. I consider a condition on the hours of use of the development could sufficiently overcome concerns regarding noise and disturbance. Such a condition could only reasonably be imposed on the extension only as the use of the main building on site is already in operation and its use is not subject to this application.

The proposed development would not directly result in any significant harm to the amenities of nearby occupants. As such I consider the proposal would comply with saved policy PS10 in this respect.

### Access and Parking

Policy CS15 of the Leicester Core Strategy (2014) seeks high quality cycle parking to encourage a modal shift away from the car. Saved Policies AM01 and AM02 of the Local Plan (2006) state that planning permission for development will only be granted where the needs of pedestrians, people with disabilities and cyclists have been successfully incorporated into the design. Policy AM12 gives effect to the Council's published parking standards.

The existing floor area of the current building is 435m<sup>2</sup> which based on our adopted parking standards would require 20 car parking spaces. The plans submitted do not include a vehicle parking plan; but it appears that 18 spaces are available. The proposal will result in an additional floor space of 374m<sup>2</sup>, and therefore the proposal requires an additional provision of 17 further spaces. The proposed site plan does not indicate how many car parking spaces would remain; however it appears that 8 spaces would be available on site.

On the basis of the above, the development would result in a significant loss of parking whereas it should be required to create an additional 17 spaces. As such the proposal is likely to lead to a significant increased demand for car parking on the highway, which is undesirable. Parking within the highway, including mounting the kerb would result in unacceptable harm to cycle and pedestrian safety. It should be noted that double yellow lines on the junction of the Gypsy Lane and Thurmaston Lane have been provided following concerns raised by local residents.

The submitted plans do not indicate any areas of secure and covered cycle parking; however this can be secured by condition.

A Travel Plan has been submitted in support of the application which has later been superseded by another Travel Plan received by the City Council as local planning authority on 25/06/2019. The City Council Travel Plan Officer has advised that the proposal would result in the loss of onsite parking and therefore further detailed provisions are required as part of a Travel Plan and Parking Management Plan to ensure the proposal is compatible with the local highways network. Details such as number of attendees to the site at any given time, times of prayer and education,

survey of transport modes, photos, parking strategy etc. In its current form the Travel Plan is unacceptable.

In light of these comments I conclude the proposal would fail to provide adequate vehicle parking which would result in unacceptable harm in terms of highways and pedestrian safety. The submitted Travel Plan is considered to be lacking sufficient information to ensure that it would be able to be implemented. As such I consider the proposal is contrary to Policy CS15 of the Leicester Core Strategy (2014) and Policies AM01, AM02 and AM11 of the Local Plan (2006).

### Trees

Saved Local Plan Policy UD06 states that planning permission will not be granted for development that impinges on landscape features of amenity value unless (a) the removal would be in the interests of good landscape maintenance or (b) the desirability of the development outweighs the amenity value of the landscape feature.

The proposal would require the removal of some trees as per the submitted plans. There are no objections to the loss of these trees as they would not justify a tree protection order.

However the proposal includes the loss of a Pine Tree to the north boundary of the site which is considered unacceptable and no information has been submitted to justify the claims of the tree being dangerous. However this tree is located to the north of the site and could be retained under the proposed scheme.

As such I conclude that the proposal could comply with Policy UD06 and would be acceptable subject to replacement planting conditions.

### Drainage

Policy CS02 of the Leicester Core Strategy (2014) states that development should aim to limit surface water run-off by attenuation within the site.

The site is within a critical drainage area indicating that it and the surrounding area are susceptible to surface water flooding. The proposal would increase surface water run-off; however a suitable sustainable drainage scheme secured by condition could mitigate any detriment in respect of drainage and flood risk.

I conclude that the proposal could comply with Core Strategy policy CS02 and is acceptable in sustainable drainage terms subject to a SuDS scheme.

### Other Matters

Objectors have raised a range of issues. To address those not otherwise dealt with in this report:

- Inconsiderate parking it is not a material planning consideration
- Behaviour of attendees to the site is not a material planning consideration



- Access for emergency vehicles has been provided in line with highways standards
- Use of the building – the site has a lawful D1 use which includes education and place of worship
- It is a matter for the Highways Authority to consider if pedestrian crossings and/or zig zag lines are necessary
- Publicity of the application has been carried out in accordance with the Statement of Community Involvement. A period of re-consultation has also been carried out in which the City Council sent out 320 letters to all of those people who made representations in the original period of consultation

### Conclusion

The proposal would have a substantial detrimental impact upon the host designated heritage asset and would result in harm to the character of the Conservation Area and the local area. The proposal is of poor design and would fail to provide adequate vehicle parking and mitigation for highways safety and traffic impacts.

The proposal could, by way of condition, secure acceptable mitigation on residential amenity, trees and landscape and cycle parking. I consider the proposal would not result in significant harm in terms of drainage.

The NPPF establishes a presumption in favour of sustainable development. In this case and in light of paragraph 11 (d) (ii), I consider that the harm caused is not outweighed by the development's contribution as an education facility and I conclude that the proposed development, because of the substantial harm caused to a designated heritage asset, is not sustainable development.

I therefore recommend that planning permission be REFUSED for the following reasons:

#### REASONS FOR REFUSAL

1. The proposed development by reason of its excessive scale and siting combined with poor design and materiality would result in substantial harm to the significance of the Grade II Listed Building. The proposal would fail to preserve or enhance the listed building's special architectural and historic interest and would not protect the character of this designated heritage asset, contrary to paragraphs 193 and 195 of the NPPF 2019 and Policy CS18 of the Leicester Core Strategy (2014).
2. The proposal, by virtue of its excessive scale, siting and design would detract from the visual quality of the Conservation Area and would introduce an overbearing and dominant feature within the street scene. The proposal would detract from the residential scale of development on site and would be an unsympathetic addition to the street scene. The proposal is therefore contrary to paragraphs 127, 130 and 192 of the NPPF and Core Strategy policies CS03 and CS18.

3. The proposal, by reason of its size and siting would result in the loss of vehicle parking spaces on site and would not provide sufficient spaces to serve the additional facilities. This would result in parking within the highway to the detriment of highway safety, including pedestrian safety and congestion. Therefore the proposal is contrary to paragraph 108 of the NPPF, policies AM01 and AM11 of the City of Leicester Local Plan and Core Strategy policy CS03.

#### NOTES FOR APPLICANT

1. For avoidance of doubt this application is refused on the basis of application form, supporting information and plans received on 09/04/2019 and Travel Plan received on 26/06/2019.
2. The City Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular pre-application advice was given and the applicant was advised the proposal is unacceptable. Notwithstanding that advice the City Council has determined this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received. As the proposal was clearly unacceptable and could not be reasonably amended it was considered that further discussions would be unnecessary and costly for all parties.

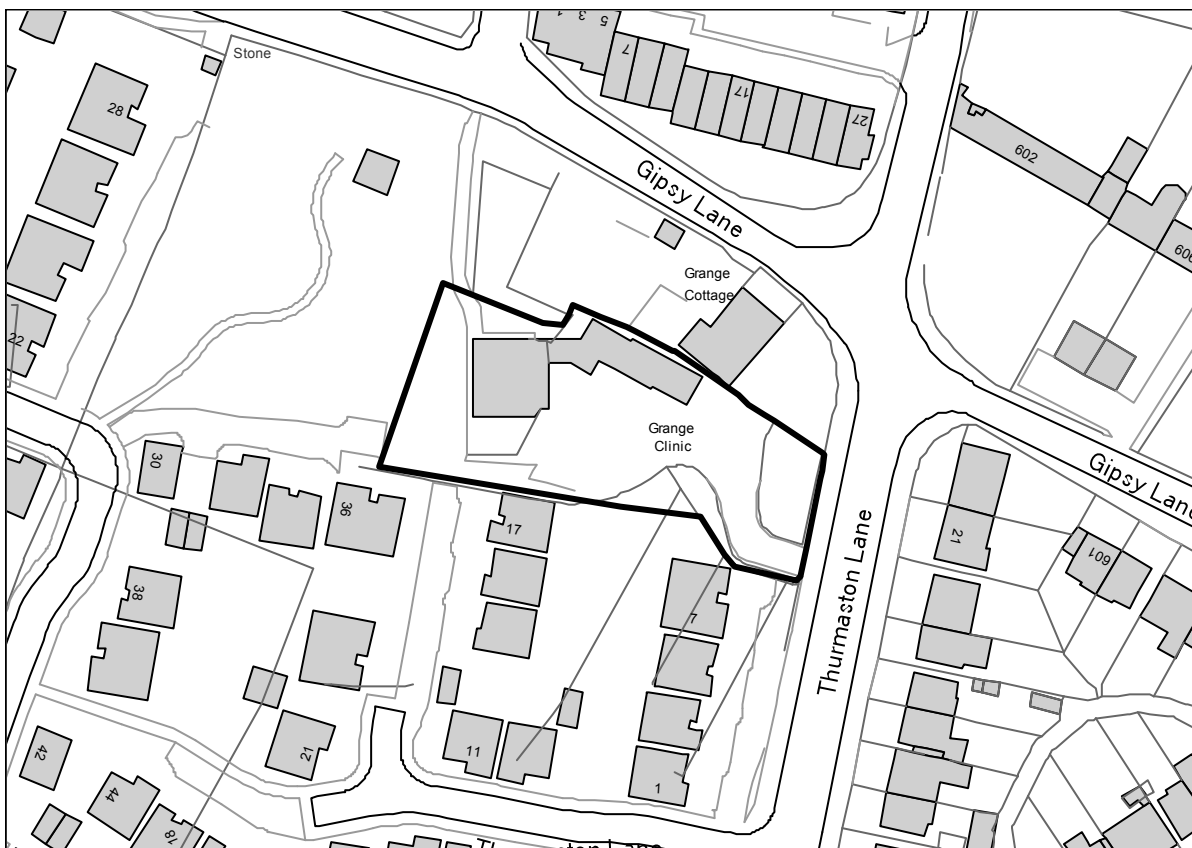
#### **Policies relating to this recommendation**

- |           |  |
|-----------|--|
| 2006_AM01 | Planning permission will only be granted where the needs of pedestrians and people with disabilities are incorporated into the design and routes are as direct as possible to key destinations.  |
| 2006_AM02 | Planning permission will only be granted where the needs of cyclists have been incorporated into the design and new or improved cycling routes should link directly and safely to key destinations.  |
| 2006_AM11 | Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.  |
| 2006_BE22 | Planning permission for development that consists of, or includes, external lighting will be permitted where the City Council is satisfied that it meets certain criteria.   |
| 2006_PS10 | Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.   |
| 2006_PS11 | Control over proposals which have the potential to pollute, and over proposals which are sensitive to pollution near existing polluting uses; support for alternative fuels etc.   |
| 2014_CS02 | Development must mitigate and adapt to climate change and reduce greenhouse gas emissions. The policy sets out principles which provide the climate change policy context for the City.  |
| 2014_CS03 | The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'. |

- 2014\_CS08 Neighbourhoods should be sustainable places that people choose to live and work in and where everyday facilities are available to local people. The policy sets out requirements for various neighbourhood areas in the City.
- 2014\_CS16 The Council aims to develop culture and leisure facilities and opportunities which provide quality and choice and which increase participation among all our diverse communities. New developments should create an environment for culture and creativity to flourish.
- 2014\_CS18 The Council will protect and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.



<b>Recommendation: Refusal</b>	
<b>20190693</b>	<b>16 THURMASTON LANE</b>
Proposal:	CONSTRUCTION OF TWO STOREY DETACHED BUILDING WITH SINGLE STOREY LINK TO GRADE II LISTED BUILDING (CLASS D1) ALTERATIONS
Applicant:	DARUL ARQAM EDUCATIONAL TRUST
View application and responses	<a href="http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190693">http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190693</a>
Expiry Date:	22 August 2019
PK	WARD: Troon



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## Summary

- Reported because the Head of Planning considers that the application should be considered by the Planning Committee;
- A total of 34 objections received raising concerns about noise and disturbance, highways safety, parking, design, impact on residential amenity;
- A total of 72 letters of support received stating the benefits to the community, types of activities provided, use of the site by different age groups and resolutions to the concerns raised by objectors.

- The main issue is the impact on a Grade II Listed Building
- Recommended for refusal.

## **The Site**

The site comprises a detached two storey grade II listed building. The building has previously been extended with single storey pitched roof extensions projecting into the car park of the site. The original building, dating from late 18<sup>th</sup> Century, was formerly known as Humberstone Grange Clinic which links back to its historic use as part of the Towers Hospital, now redeveloped.

The building was listed in March 1975. The listing describes the building as a red brick house. The listing goes on to describe the building as 'Stucco band and cornice and small parapet. Slate roof with gable ends. *Two storeys. Three windows, sashes, first floor with glazing bars. Modernised entrance and ground floor windows, central round arch double recess with fanlight and flush panelled doors with reeded moulding. Including adjoining small C19 greenhouse attached to south end, cast-iron, round arched with moulded decoration to end cast-iron members.*' The greenhouse has been removed as detailed in the background information below.

The buildings front elevation faces the open space to the west which is accessed off Gypsy Lane to the north and Bovinger Road to the south-west. The site is accessed off Thurmaston Lane which appears to form the main access into the building.

The site is located within the Old Humberstone Conservation Area and within a Critical Drainage Area. The site is within an Archaeology Monument which is described as a late C18th former farmhouse with a C19th conservatory. The site is surrounded by a number of mature trees; however none of these are subject to a Tree Preservation Order.

## **Background**

The previous clinic was within Class D1 use. The current use also falls within Class D1.

20190692 – Construction of Two storey building with link extension to front and side of building (Class D1) – this is the associated development application which is also on this agenda.

## **The Proposal**

The proposal is for external alterations to the listed building only, comprising of the construction of a flat roof two storey building to the side (south) and front (east) of the listed building. The building would have a footprint measuring 24.6 metres in depth and 8.7 metres in width. The building would be attached to the side (south) elevation of the grade II listed building by a single storey link extension with a footprint measuring 2.2 metres in width and approximately 3 metres in depth. The height of the building would be approximately 6.8 metres which is just short of the eaves height of the host building.

Although the development is described as an extension to the host grade II listed building, it is only an extension by virtue of the 'link' connection. There is no internal access between the host and proposed building.

The link would be situated approximately 9 metres from the front elevation of the host building whereas the two storey element would be set-back by 6-8 metres from the same façade by virtue of its angled siting.

The building would follow the side boundary of the site and retain a separation distance of 3 metre from the 2 metre high timber fence shared with adjacent properties. The siting of the building would create an internal courtyard within the site and the building's north elevation at the ground floor would comprise bi-folding doors and at first floor large elements of glazing.

The external finishes of the building would include the single storey link to be finished with dark grey cladding and the two storey element being a mix of vertical timber cladding, facing brickwork panels with anodised aluminium window and door frames. The proposal would provide a multi-use space to accommodate the facilities provided by the current occupants over two floors.

Part of the footprint of the proposed two storey building and the resultant site layout would result in the loss of some car parking spaces currently available immediately to the front of the host building. A travel plan has been submitted in support of the application. The number of vehicle parking spaces within the site are not identified on the plans but it appears that 8 spaces could be accommodated.

There are two group trees along the southern boundary of the site which are proposed to be removed to facilitate the development. It is also indicated that a Pine Tree to the north of the host building is also proposed to be removed; however this is not close the proposed building.

For avoidance of doubt, amended plans have been submitted only to supplement the submitted plans to provide further clarity on the layout and use of the building.

## **Policy Considerations**

### National Planning Policy Framework (NPPF) 2019

Section 16 places and emphasis on the desirability to sustain and enhance significance of Heritage Assets. Paragraph 184 states that 'these assets (heritage assets) are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations' Paragraph 189 states that the LPA should require an applicant to describe the significance of any heritage assets affected, including any contribution made to their setting. It advises that the level of detail should be proportionate to the assets' importance. It goes on to states that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require

developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Paragraph 192 requires local planning authorities to take into account the following:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 196 states that where development proposals of less than substantial harm to the significance of a designated Heritage Asset, this should be weighed against the wider public benefits of the proposal Paragraph 200 requires local planning authorities to look for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

#### Development Plan Policies

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

#### Supplementary Planning Documents

Old Humberstone Conservation Area Character Appraisal

### **Consultations**

Conservation Advisory Panel (19<sup>th</sup> June 2019): The Panel's discussion began with unanimous criticism in regards to the spatial and visual relationship of the extension to the Grade II Listed asset on site. Although the contemporary design was endorsed, the overwhelming solid to void ratio associated with substantial areas of timber cladding were evaluated unfavourably. A lighter aesthetic of the two-storey extension was recommended, as was an improved spatial relationship with the host building. The members also commented on the poor execution of the drawings submitted, impeding the legibility of the proposal. Due to the above, an amended set of more detailed drawings with 3D visualizations were requested.

Although the principle of a two-storey extension of comparable scale was not objected to, it was concluded that the current design was not acceptable and needed a much stronger architectural response. The proposal should be subject to significant amendments, to ensure a more successful contextual response.

Georgian Group: Whilst the Group would not wish to object in principle to a new structure on this approximate site, we have considerable concerns regarding the scale and massing of the building proposed. Whilst the scheme's architect has gone to



considerable lengths to mitigate the impact of the proposed new range on the setting of the former house's principal elevation, the proposed development would still cause a degree of harm to the listed building's setting. Paragraph 194 of the NPPF states that 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification...'. No such clear and convincing justification has been provided for the work proposed. It is not clear from the documentation available whether the proposed new structure will provide all of the facilities needed by the applicant in the medium to long-term. What is clear is that the site is reaching the limits of the development which can be achieved without causing serious harm to the listed building's setting.

## **Representations**

Objections have been raised from 19 city addresses which raise concerns on the following basis:

- Highways safety, parking management, inconsiderate parking, traffic & congestion, poor quality of the Travel Plan, volume of traffic from all developments in the area and loss of parking
- Loss of trees
- Impact on residential amenity in respect of daylight, overshadowing, light pollution and noise pollution
- Impact on listed building, visual impact and character of the Conservation Area from all developments
- No formal change of use application, behaviour of attendees, health & safety, fire safety and access for emergency vehicles

A petition has also been received with five signatures. This has been included within the above count.

Objections from two addresses have been withdrawn and for avoidance of doubt they have not been included in the above count.

Representations of support have been received from 50 city addresses which identify the following issues:

- Need of community use and improved facilities on site
- Additional staff have been hired to help with parking issues
- Activities provided on site are beneficial to the community
- Marquee on site was only temporary and now removed
- Travel plan submitted to help with parking and congestion

Following a period of re-consultation an additional 15 objections from city addresses and 22 representations in support of the proposal have been received. These have not raised any new issues for consideration.

## **Consideration**

As a listed building consent application, the only consideration in this case is the impact of the works upon the special architectural and historic interest of the listed building.

### Listed Building

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest. Policy CS18 of the Leicester Core Strategy (2014) commits the Council to protect and seek opportunities to enhance the historic environment including the character and setting of designated heritage assets.

The site is a Grade II Listed building (former Grange Clinic) adjacent to the Grade II Listed Grange Cottage and located within the Old Humberstone Conservation Area. There is a range of Grade II Listed and Locally Listed heritage assets located in close proximity to the north and east of the site. The plot is dominated by the designated 18<sup>th</sup> century brick dwellinghouse, accompanied by subservient, later additions to north. The 'polite' façade of the buildings faces the open green space to the west which provides the most prominent visual façade of the building. Part of the north and south boundaries of the site are characterised with mature trees which screen the site from wider residential development of the old Towers Hospital.

The proposal is for a two-storey extension to the immediate south-east of the Grade II Listed building, within its curtilage, with a single storey link to the designated property. A Design and Access Statement submitted as part of the application identifies the designated status of the property and the locality under consideration.

The proposed development would be situated in an area which is highly prominent in creating the setting of the building. This space is currently not built on and comprises some hardstanding used as informal parking with two groups of trees. There is a small stone wall to the side of the listed building.

The proposed development is two storeys in height and of a footprint significantly larger than the primary 18<sup>th</sup> century building. The scale and mass of the development is considered inappropriate and excessive and one which would be visible from not only within the site but also from views from the south and west. The proposal would not only diminish the visibility of the heritage asset but also erode the dominant nature of the property on site.

The single storey link creates an awkward conjunction between the two storey bulk of the proposal and the host building. There has been no rationalisation of the location and alignment of the single storey link which provides no internal links between the existing and proposed built form. In terms of its functionality and appearance the development appears independent of the heritage asset and would not relate well to the listed building.

In terms of design and materiality the design approach of a modern addition on site is the most suitable choice. However the excessive scale and mass of the building combined with the use of timber cladding and brick work to the external finishes is

considered not to maintain or enhance the heritage assets itself or enhance the setting of the same. The asymmetric and mis-matching window composition further makes the development appear at odds within its surrounding.

The proposed development would block views to the 18<sup>th</sup> century heritage asset from the south with an almost wholly blank elevation. The scale, mass and height of the building would fail to preserve the setting of the Grade II listed building which is defined as a free-standing dwelling house. Further to this the development would erode the visibility of the building and thus diminish its importance.

Turning to the objections received, I note that there are other concerns relating to the development. These are addressed in the associated development application under reference 20190692.

The proposal, for the construction of two and single storey extensions to the Grade II listed building would result in substantial harm to the significance of the listed building. The proposal would erode the character of the heritage asset and diminish its visual prominence thus harming the setting of the listed building. As such, the works would not preserve the listed building's special interest and would not protect the character of this designated heritage asset, contrary to Policy CS18 of the Leicester Core Strategy (2014).

Accordingly I recommended that this application for listed building consent be REFUSED for the following reason:

#### REASONS FOR REFUSAL

1. The proposed development by reason of its excessive scale and siting combined with poor design and materiality would result in substantial harm to the significance of the Grade II Listed Building. The proposal would fail to preserve or enhance the listed building's special architectural and historic interest and would not protect the character of this designated heritage asset, contrary to paragraphs 193 and 195 of the NPPF 2019 and Policy CS18 of the Leicester Core Strategy (2014).

#### NOTES FOR APPLICANT

1. For avoidance of doubt, this application is refused on the basis of application form, supporting information and plans submitted on 09/04/2019.

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

2014\_CS18 The Council will protect and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.



PLANNING INSPECTORATE APPEAL DECISIONS		
<b>20188034A</b>	<b>2-4 HUMBERSTONE GATE &amp; 1-3 HAYMARKET</b>	
Proposal:	<b>INSTALLATION OF SHOPFRONT AND ATM; EXTERNAL ALTERATIONS (CLASS A2)</b>	
Appellant:	METRO BANK PLC	
Appeal type:	Planning Appeal	
Appeal received:	11 May 2018	
Appeal decision:	Allowed	
Appeal dec date:	8 April 2019	
TEI	AREA: C	WARD: Castle



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## Summary

- An application for the installation of a shopfront and ATM and for external alterations was refused in August 2017.
- The appeal was by an informal hearing held in March 2019.
- The appeal was allowed.

## **Location and Site Description**

The application related to the ground and first floor of the south west corner of the Haymarket Shopping Centre. The site sits outside the High Street Conservation Area but is set 20 metres away from the Grade II listed Clock Tower affecting its setting.

Clarks shoe shop currently occupies the ground and first floors.

## **The Proposal**

The proposal was for a two storey height clear glazed shopfront on both the south and west elevations of the building and for the first floor part of the corner to be built out so that it would be in line with the ground floor. The existing canopy would be removed from this corner of the building. The public door would be to the western elevation and an ancillary door to the south elevation. One ATM would be added to each elevation.

The application was refused on three grounds including that its design, scale and position would be out of keeping with and harm the character and appearance of the area, would disrupt the symmetry, articulation and general uniformity of the building and its visual integrity and architectural merit and would have an overly dominant impact on the setting of the Grade II listed Clock Tower harming its special significance.

## **The Appeal Decision**

The appeal was allowed.

## **Commentary**

The appeal decision clarified that the appellant could occupy the building under Part 3, Class D of Schedule 2 of the General Permitted Development Order 2015 (as amended) and that the appeal relates solely to the works that required planning permission.

The inspector observed that the horizontal emphasis was a striking feature of the building and added to a sense of uniformity in the elevations. She added that the first floor no longer had an active frontage.

She concluded that the appearance of the corner would be significantly altered and despite the appellant's argument that the fascia bands would retain the horizontal emphasis agreed with the Council's view that these would be a much weaker horizontal feature.

She also agreed with the Council's view that the proposal would be out of keeping with the single storey height shopfronts that characterised the area and concluded that there would be some harm to the nearby area.

She also agreed that the proposal would detract from the uniformity of the building and disrupt its visual integrity and architectural merit. She added that it would not be in proportion with the lines of the facades of which the proposal formed a part and concluded that the proposal would harm the character and appearance of the building.

In respect of the impact of the proposal on the setting of listed Clock Tower the inspector concluded that it would disrupt the uniformity of the west elevation which competes less with the Clock Tower than would the proposed double height shop front and would distract the eye from the Clock Tower resulting in minor harm to its setting.

However, the inspector added that a modern, transparent and open shopfront would be appropriate in a central shopping core location and would not be so over dominant

in its context as to be inappropriate. She also added that it would help promote the image of Leicester as a modern city and provide an active frontage which could promote public safety and that the removal of the canopy would open up some views of the Clock Tower and the Clock Tower would in any case be visible through the glazing.

The inspector reported how the appellant indicated that there would be no possible design solution that would work for the appellant within the limitations of the existing balcony and canopy arrangements and how she saw no reason to doubt this.

She saw no reason to suppose that the appeal site would remain vacant for any significant period of time. Nevertheless, she considered that the public benefits of the occupancy of the site by the appellant would outweigh the harm caused by the proposed development. She listed the public benefits as an update and visual uplift of this corner of the shopping core, an active use of the first floor, an ongoing commitment by way of a 25 year lease on the property, the provision of an alternative banking facility, 25 jobs and training opportunities and encouraging town centre footfall and promoting safety and security in the area.





PLANNING INSPECTORATE APPEAL DECISIONS		
<b>20198004A</b>	<b>43 BELVOIR STREET</b>	
Proposal:	<b>INSTALLATION OF ROLLER SHUTTER; CONSTRUCTION OF FIRST FLOOR TERRACE; ROOF LIGHTS; ATERATIONS (CLASS A3) (AMENDED PLANS 22/10/18)</b>	
Appellant:	MR ABDUL CARATELLA	
Appeal type:	Planning Appeal	
Appeal received:	16 January 2019	
Appeal decision:	Allowed	
Appeal dec date:	4 June 2019	
SC	AREA: C	WARD: Castle



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## Summary

- An application was refused under delegated powers; the noise from the roof terrace would harm residential amenity and the roller shutters would harm visual amenity.
- The appeal was allowed; and
- The Inspector felt that the presence of tall buildings around the terrace would mitigate noise transmission and its impact on residential amenity. He agreed the roller shutters would harm visual amenity

### **Location and Site Description**

The appeal relates to a three-storey locally-listed building which is located adjacent to the Market Street Conservation Area. The site is currently in use as a bar and grill. It also relates to the single-storey building next door at number 41 which is currently used as a hot food takeaway.

### **The Proposal and Decision**

The proposal was for the following:

- Construction of an outdoor roof terrace above no. 41b to create an outdoor area for the bar/grill at no. 43.
- Introduction of two roof lights to the north-east facing roof slope above number
- Introduction of roller shutters to the ground floor frontages of both 43 and 41b

The application was refused on the following grounds:

- The proposed roof terrace would harm the amenity of residents of nearby flats, and furthermore would prejudice the future use of upper floors of nearby premises for residential purposes due to noise.
- The proposed roller shutters would cause harm to visual amenity, and would be harmful to the significance of number 43, which is a locally-listed non-designated heritage asset.

### **The Appeal Decision**

The appeal was allowed.

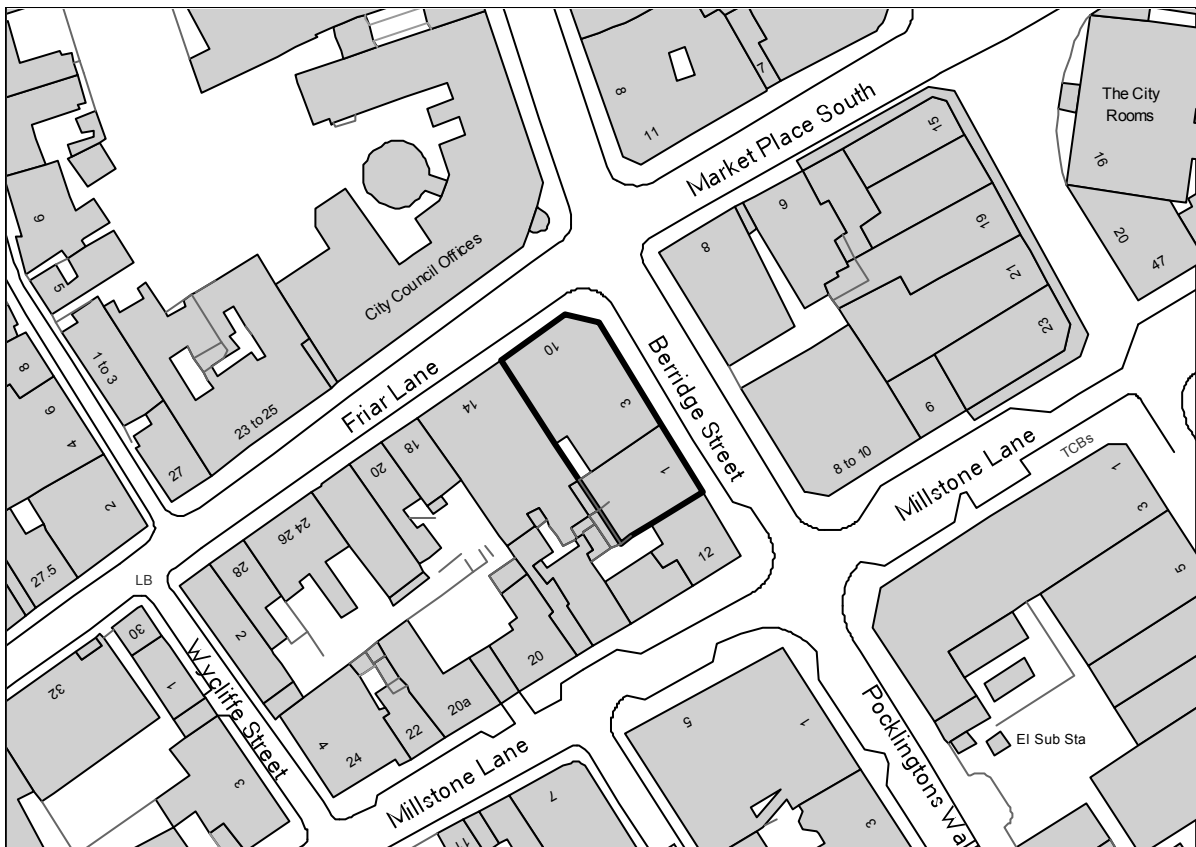
### **Commentary**

The inspector took the view that tall buildings in between the site and flats at 6 and 8 Bowling Green Street would mitigate noise transmission in that direction, and noted the presence of other tall buildings around the site.

As regards potential prejudice to future use of upper floors in the city centre for housing, the inspector noted the City Councils support for regeneration and new housing in the city centre, but stated that they could only assess the proposal on the information in front of them.

The inspector agreed that the proposed box-type shutter would be out of keeping with the surrounding street scene, but noted the presence nearby of open grille shutters with a housing that is flush with the shop front. He therefore allowed the installation of shutters subject to a pre-commencement condition that the details be approved by the local planning authority.

PLANNING INSPECTORATE APPEAL DECISIONS		
20198007A	10 FRIAR LANE, FERNANDEZ GRILLHOUSE AND 1 BERRIDGE STREET	
Proposal:	REMOVAL OF CONDITIONS 1 (LIMITED PERIOD CONSENT), 2 (VENTILATION SYSTEM RETAINED), 4 (NOISE LEVEL) AND 5 (NO DETRIMENT FROM FLUE) ATTACHED TO PLANNING PERMISSION 20181049 RETENTION OF VENTILATION FLUE TO REAR OF RESTAURANT (CLASS A3)	
Appellant:	FERNANDEZ GRILLHOUSE	
Appeal type:	Planning Appeal	
Appeal received:	25 February 2019	
Appeal decision:	Allowed	
Appeal dec date:	13 June 2019	
ACB	AREA: C	WARD: Castle



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## Summary

- Planning permission 20181049 was granted for retention of ventilation flue at rear of restaurant subject to limited period consent.
- Appeal received was against conditions attached to the permission relating to the limited period, the retention of the flue, a noise level and the flue not to cause a detrimental impact on neighbours.

- Conditions relating to the limited period, noise level and no detrimental impact were removed.

### **The Site**

The site consists of two properties, 10 Friar Lane is a five storey building whilst 1 Berridge Street is a three storey building. They are located within the Greyfriars Conservation Area and the Townscape Heritage Initiative area. The ground floor and basement of 10 Friar Lane are in use as a restaurant whilst the upper floors are in use as flats. The entirety of 1 Berridge Street is in use as a solicitors' office.

### **The Proposal and Decision**

In October 2018 planning permission 20181049 was granted at your committee meeting for the retention of an extraction flue and abatement unit to the rear of the restaurant on a limited period basis for 6 months.

### **The Appeal**

An appeal was submitted against the conditions that were attached to the planning permission. The conditions appealed against were 1 (limited period permission), 2 (retention of the flue), 4 (noise level of the flue) and 5 (no detrimental impact on residents)

### **The Appeal Decision**

The appeal against conditions 1, 4 and 5 was allowed. The appeal against condition 2 was dismissed.

An application for costs from the appellant was also allowed although confirmation of the amount to be claimed is yet to be received.

### **Consideration**

#### Condition 1

The inspector considered that Planning Practice Guidance stated that a temporary permission may be appropriate where a trial run is required in order to assess the impact of development on an area, but that it is rarely justifiable to grant a second temporary permission. The Inspector considered that monitoring of the flue had taken place and that there was no further need to monitor the flue particularly as the reasons for imposing the limited period were not clear. The inspector therefore removed the condition.

#### Condition 2

This condition requires the ventilation system and abatement unit to be retained in accordance with the approved details for the lifetime of the restaurant use. The appellant stated that this contradicts the limited period condition. The inspector agreed that this was the case, however as they determined that condition 1 should be deleted they considered that condition 2 should remain and dismissed the appeal against this condition.

#### Condition 4

This condition controls the noise levels that the flue can generate. It is limited to 55dB(A) when measured 1 metre from the flue. The appellant stated that as the

background noise level is higher than this it is not possible to comply with the noise level as set in the condition. The Inspector considered that this was the case and therefore the condition was not enforceable, precise or reasonable. The inspector therefore allowed the appeal against this condition.

#### Condition 5

This condition states that the operation of the flue shall not be detrimental to the amenity of the occupiers of any property in the vicinity of the site by reason of fumes, smoke, or odour. The appellant stated that if the flue operates correctly it will not cause any harm to local residents. The Inspector considered that the condition was not necessary as the reason for imposing it was the same as conditions 2 and 3. The Inspector further considered that the condition did not contain any mechanism for measuring detriment to local amenities and was vague and difficult to enforce. The condition therefore fails the 6 tests for conditions and the appeal was allowed against this condition.

#### **Commentary**

The decision is in line with the government advice to not repeatedly grant limited period permissions. Although the conditions 1, 4 and 5 are removed I consider that conditions 2 and 3 of the permission which are still in place are aimed to safeguard the residential amenity. In addition there is separate control to deal with smells and noise under the Environmental Protection Act. With regard to condition 5 this was a condition that is generally attached to planning permissions involving ventilation flues to control impact of pollutants; the implications of this decision are that the drafting of this condition will need to be reviewed in terms of improving enforceability.



PLANNING INSPECTORATE APPEAL DECISIONS		
<b>20198014A</b>	<b>42 GUTHRIDGE CRESCENT</b>	
Proposal:	<b>TWO STOREY EXTENSION TO SIDE; SINGLE STOREY EXTENSION TO FRONT, SIDE AND REAR OF HOUSE (CLASS C3) (AMENDED 19.02.19)</b>	
Appellant:	MR SUKHWANT SINGH	
Appeal type:	Planning Householder Appeal	
Appeal received:	12 April 2019	
Appeal decision:	Dismissed	
Appeal dec date:	17 June 2019	
TEI	AREA: W	WARD: Braunstone Park & Rowley Fields



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## Summary

- An application for the installation of a two storey extension at the front, side and rear of house was refused in March 2019.
- The appeal was dismissed.

## Location and Site Description

The application relates to a semi-detached property in a primarily residential part of the city.

### **The Proposal**

The proposal was for a two storey extension to the side and a single storey extension to the front, side and rear of the house. It was refused as the scale of the two storey extension to the side and the forward protrusion of the single storey extension to the front would appear overly dominant in relation to the existing property, out of proportion in relation to the host property and its immediate neighbour and not in keeping with the general design principles characteristic of Guthridge Crescent and Valance Road.

### **The Appeal Decision**

The appeal was dismissed.

### **Commentary**

The inspectorate's decision concluded that the extension would result in a dominant, prominent feature which would detract from the appearance of the host property and would unbalance the pair of semi-detached dwellings.

The decision also concluded that the proposal would introduce an incongruous feature into an established residential area.

The two storey side and single storey front extension were considered harmful to the character and appearance of the host property and the pair of semi-detached dwellings of which it forms part. The proposal would significantly diminish the contribution they make to the quality of the locality and the character and appearance of the area would be harmed as a result.

Though the decision noted the presence of a medium size tree in the side garden of number 44 that would soften the appearance of the extension when viewed from the north it added that this tree was not in the control of the applicant and could be removed at any time.



PLANNING INSPECTORATE APPEAL DECISIONS		
<b>20198015A</b>	<b>9 LAMBORNE ROAD</b>	
Proposal:	<b>CONSTRUCTION OF SINGLE STOREY AND CANOPY TO FRONT; TWO STOREY SIDE EXTENSION; SINGLE STOREY REAR EXTENSION; PITCH ROOF OVER EXISTING EXTENSION AT REAR OF HOUSE (CLASS C3)(AMENDED)</b>	
Appellant:	MR AMARDEEP SANGHERA	
Appeal type:	Planning Appeal	
Appeal received:	15 April 2019	
Appeal decision:	Dismissed	
Appeal dec date:	17 June 2019	
PO	AREA: W	WARD: Knighton



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## Summary

- An application for a two storey extension at the side of a house, together with alteration of the roof from hipped to a gable end, was refused in March 2019.
- The appeal was dismissed.

## **Location and Site Description**

The application relates to a semi-detached property in a primarily residential part of the city.

## **The Proposal**

The proposal was for an existing garage to be converted or removed, and a new side wall retaining the passage to the side but supporting the first floor over the passage way up to the boundary.

The side extension proposed a roof form with a gable end facing the neighbouring property and that did not match the hipped roof form of the original property.

The application was refused for two reasons:

- the design and siting would appear dominating, detract from the street scene and does not assimilate with the character and appearance of the wider area.
- the design and siting would result in insufficient separation from the rear of 120 Northdene Road causing loss of outlook and appearing overbearing to the occupants of no.120 Northdene Road.

## **The Appeal Decision**

The appeal was dismissed.

## **Commentary**

The inspectorate focused on two main considerations as being:

- the effect on the character and appearance of the area, having particular regard to the design and siting of the two storey side extension, and
- the effect on the living conditions of 120 Northdene Road.

The Inspectorate's decision concluded that the proposed two storey extension would introduce a discordant built form into the locality that would be out of keeping and harmful to the character and appearance of the host property and wider area.

However, the decision also concluded that the proposal would not significantly affect the outlook from No 120. The inspector noted that whilst there would be some deviation from the SPD Residential amenity guide, this would not be by a significant amount, and the proposal would meet the requirements of paragraph 127 of the Framework, which, amongst other matters, requires that developments create places with a high standard of amenity for existing and future users.

The overall conclusion was that although the resulting living conditions were found acceptable, significant harm would result to the character and appearance of the host building and the area. This was found to be in conflict with the development plan and no overriding reason to disregard the development plan was found.