

Leicester
City Council

Wards:
See individual reports.

Planning & Development Control Committee

Date 4th August 2009

REPORTS ON APPLICATIONS AND CONTRAVENTIONS

Report of the Service Director, Planning & Policy

1 Introduction

- 1.1 Reports to any committee must address the implications of the action recommended in relation to finance, legal issues, equal opportunities, policy, sustainability and the environment, crime and disorder, the Human rights Act, and the elderly and people on low incomes.
- 1.2 This report deals with development control matters on which the recommendations must be based on material planning considerations as set out in the planning acts and associated regulations, circulars and central government guidance. The following implications paragraphs relate to all the recommendations in this report.

2 Financial Implications

- 2.1 The cost of operating the development control service, including processing applications and pursuing enforcement action, is met from the Planning Management and Delivery Group budget which takes account of the income expected to be generated by planning application fees.
- 2.2 Development control 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.
- 2.3 Where impacts arise from developments 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.

Recommendations to secure planning obligations are included in relevant individual reports.

3 Equal Opportunities Implications

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

4 Policy Implications

- 4.1 Planning applications must be decided in accordance with the provision of Development Plan, principally the saved policies of the City of Leicester Local Plan and the East Midlands Regional Plan, unless these are outweighed by other material considerations. These include supplementary planning documents, site-specific development briefs produced by the City Council, and emerging documents of the local development framework, including the Core Strategy, due for public consultation in 2009. Individual reports refer to the policies relevant to the recommendation.

5 Legal Implications

- 5.1 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 Service Director (Legal Services) has been consulted and his comments are incorporated in individual reports.

6 Human Rights Act

- 6.1 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).
- 6.2 The issue of Human Rights is the material consideration in the determination of planning applications and enforcement issues. Article 8 requires respect for private 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.
- 6.3 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.

- 6.4 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.

7 Sustainability and Environmental Implications

7.1 The City of Leicester Local Plan has been subjected to a full sustainability appraisal, and there will be appraisals of the key local development framework documents. The sustainability implications material to each recommendation, including any Environmental Statement, submitted with a planning application, are examined in each report.

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

Page	App. No.	Address	Ward	Report Section

8 Crime and Disorder Implications

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

9 Elderly/people on low income

9.1 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 individual reports.

10 Consultations

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

11 Background Papers

11.1 Copies of individual planning applications are available for inspection in the Customer Service Centre, New Walk Centre, at relevant local customer service centres and on line at www.leicester.gov.uk/planning. Representations and consultation responses on individual applications are kept on application files, which can be inspected by contacting the Planning Management & Delivery, extension 7249, and on line in the relevant application record.

12 Officer to Contact

12.1 Authors of individual contravention and application reports, via Extension 7249 or Mike Richardson, Head of Planning Management & Delivery, Extension 7244.

CONTENTS	PAGE NOS.
CONTRAVENTION MATTERS	-
APPLICATIONS	5-66
PLANNING INSPECTORATE APPEAL DECISIONS	-

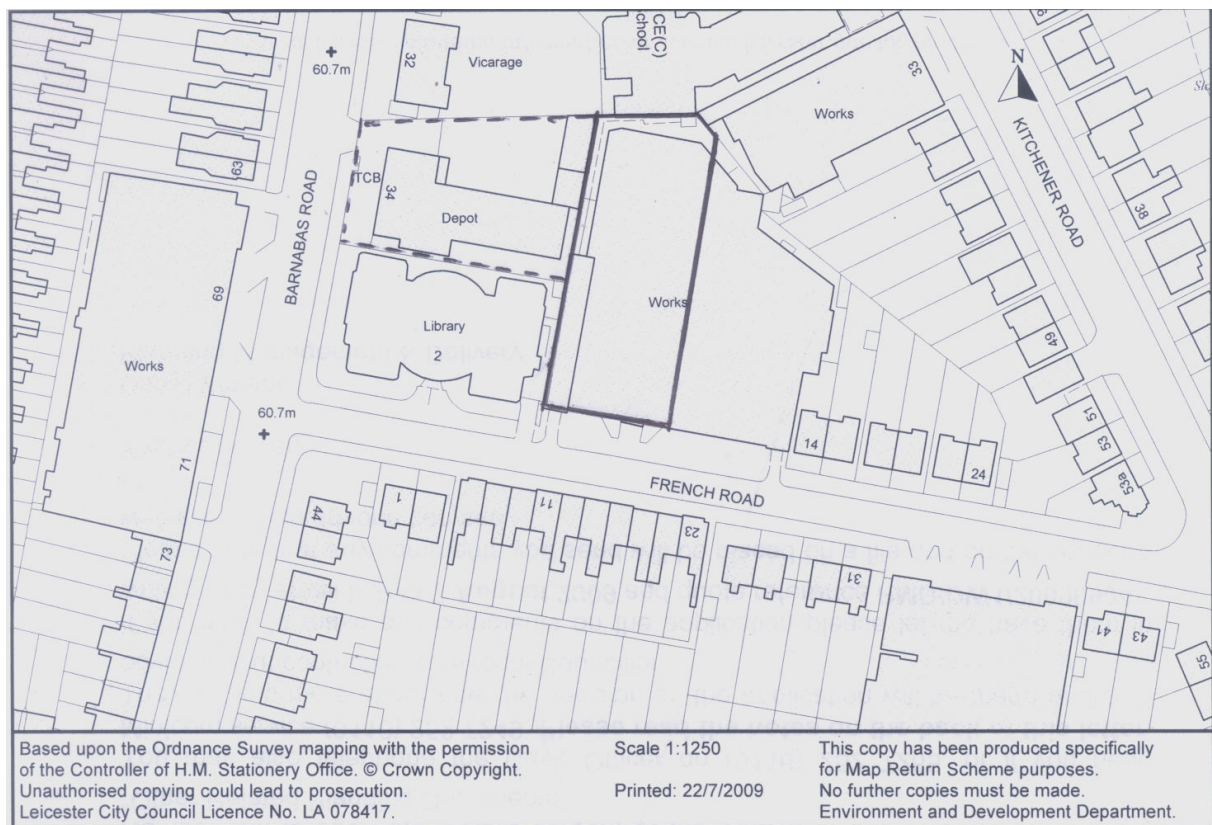
**INDEX
APPLICATION ORDER**

Page Main	Page Supp	Application Number	Address	Area	Ward	Report Section
5		20081754	8 French Road And 34 St Barnabas Road	PM	CO	CO
13		20090309	10 Gwendolen Road, Units 1& 2	PM	SH	CO
22		20090473	36 Portland Road	PSE	CA	CO
25		20090502	498 Uppingham Road	PNW	TC	RF
31		20090544	58 Green Lane Road	PSE	CW	RF
35		20090548	753a Aylestone Road	PSE	AY	CO
38		20090571	Beaumont Park, Bennion Road	PM	BL	CO
61		20090660	429 Melton Road	PNW	RM	CO
64		20090718	36 Pine Tree Avenue	UD	HH	CO

**INDEX
ADDRESS ORDER**

Page Main	Page Supp	Application Number	Address	Area	Ward	Report Section
35		20090548	753a Aylestone Road	PSE	AY	CO
38		20090571	Beaumont Park, Bennion Road	PM	BL	CO
5		20081754	8 French Road And 34 St Barnabas Road	PM	CO	CO
31		20090544	58 Green Lane Road	PSE	CW	RF
13		20090309	10 Gwendolen Road, Units 1& 2	PM	SH	CO
61		20090660	429 Melton Road	PNW	RM	CO
64		20090718	36 Pine Tree Avenue	UD	HH	CO
22		20090473	36 Portland Road	PSE	CA	CO
25		20090502	498 Uppingham Road	PNW	TC	RF

Recommendation: Conditional approval	
20081754	8 FRENCH ROAD AND 34 ST BARNABAS ROAD
Proposal:	CHANGE OF USE FROM INDUSTRIAL (CLASS B2) TO PLACE OF WORSHIP (CLASS D1) AT 8 FRENCH ROAD TO FORM EXTENSION TO PLACE OF WORSHIP AT 34 ST BARNABAS ROAD; SINGLE STOREY LINK BUILDING
Applicant:	MR HIMAT POPAT
App type:	Change of use
Status:	Small-scale Major Development
Expiry Date:	28 July 2009
SB1	WARD: Coleman



Summary

- 34 St Barnabas Road is an existing temple and community centre which has been there for over ten years.
- Petition with 43 names and representation from adjacent factory objecting on grounds of parking, traffic and noise.
- Petition of support with 683 names stating that the proposal would meet growing needs of the group and benefit the community.
- The main issues are parking/traffic and impact on residential amenity balanced with the need to support facilities for the local community.
- The recommendation is for approval with an hours of use conditions, requirement for a travel plan and a condition that the French Road premises are only used in conjunction with the existing premises.

Introduction

The application site comprises the existing Shree Hindu Temple on St Barnabas Road, and an industrial property (currently occupied and divided into 3 units) on French Road. The site is located in an area allocated for residential use in the City of Leicester Local Plan.

The front part of the industrial building is two storeys high but behind this the majority of the building is single storey. The site is bounded by St Barnabas Library; St Barnabas Church and Vicarage, industrial units and residential properties. The site lies within flood zone 3 (1:100).

Background

Permission was given for the change of use of 34 St Barnabas Road from industrial to Place of Worship in 1996. In the same year single storey side and rear extensions were approved. In 2000 (20000364), following two limited period approvals, the hours of use were extended to 0800 to 2130 Monday to Thursday, 0800 to 2300 Friday to Sunday, and, on 30 special occasions per year only, 0800 to 2400 hours. Application 20080494 to extend the use into 8 French Road was refused under delegated powers for the following reasons:

1. The proposal, by reason of the increased floor area and the lack of on-site parking is likely to exacerbate the parking demand in an area where on-street parking is at a premium, resulting in traffic congestion, to the detriment of highway safety and residential amenity, contrary to policies CL08, H13, AM11 and PS10 of the City of Leicester Local Plan and the SPG 'Vehicle Parking Standards'.
2. The proposal, by reason of the hours of use and the increased floor area, is likely to result in noise and general disturbance to nearby residential properties both from within the building and externally, especially late in the evening and at weekends from the increased pedestrian and vehicular movement associated with the use, contrary to policies CL08, H13 and PS10 of the City of Leicester Local Plan.

The Proposal

The proposal is similar to that of application 20080494, but more information has been provided on existing and proposed numbers. The transport statement has been also been expanded to include further information on activities and a draft travel plan`.

The use would occupy the westernmost unit of the industrial property on French Road, which is immediately to the rear of the existing Temple. It would provide amenities including a kitchen, dining area, offices and classrooms and would have a floor area of 1388sq m. A new single storey building would link the buildings, and the existing boundary wall between the buildings would be demolished.

The main entrance would continue to be from St Barnabas Road where there is a car park for approximately 10 vehicles, but there would also be a pedestrian access from French Road, where there would be forecourt parking for 3 or 4 cars. There would be no other off-street parking provided.

A dining area, kitchen, offices and classrooms would occupy the ground floor of the extension. The front first floor area would be offices as at present, and a further small first floor area to the rear would become a meeting room.

Within the existing temple, the present kitchen would become a lobby and toilets, and the dining area would become part of an extended area for worship.

The Design and Access Statement states that it is not intended that the numbers of regular users of the facilities would increase. The intention is to improve facilities and allow special events to be held from time to time.

A Design and Access Statement, Transport Statement incorporating draft Travel Plan, and Flood Risk Assessment are submitted with the application.

Policy Considerations

City of Leicester Local Plan policies relevant to this application are listed at the end of this report. SPG 'Vehicle Parking Standards' is also relevant.

Consultations

Local Highway Authority – considers that the application should be refused because of inadequate parking, but suggest that if it were to be approved, a condition be attached requiring a Travel Plan to be submitted.

Representations

A petition with 43 signatures has been received objecting to the proposal. The objection is on the following grounds:

- The problem of car parking is already horrendous and the proposal will make the situation worse;
- Noise will also be a serious problem.

Four individual letters of objection have been received, including one from the adjacent industrial unit. The grounds of objection are:

- At present, parking by temple users, library users and staff and factory workers means there is no parking space for residents and visitors;
- Parking restrictions on French road mean parking is already very limited;
- Parking causes traffic congestion in St Barnabas Road and adjacent streets;
- Temple users do not observe parking regulations, driveways blocked etc;
- There would be increased risk to children;
- There are businesses operating from home in the area and customers already have trouble parking, this will seriously affect them;
- Noise at night is already a problem and it will become worse;

The adjacent manufacturing business has objected on the following grounds:

- They work 6 days a week, more at busy periods and require continuous access which would be lost.
- Because there would be an access from French Road, parking is likely to take place on the forecourt of the adjacent units, or on the road in front, which would seriously disrupt deliveries;
- Unit is divided from other units by single breeze block wall with poor sound insulation;
- Other units have right of way over the land belonging to unit 1;

- Sprinkler system shared;
- The business would be more difficult to sell

The business has sent in photographs to show the parking situation in the area.

A petition of support with 683 signatures has been received from users of the Temple, the grounds being that the extension would meet the growing needs and would also benefit the community in general. A significant proportion of those signing the petition live within walking distance.

Consideration

Principle of change of use

Although policy CL09 of the Local Plan has not been saved for the purposes of the current development plan, the supporting text recognises that community facilities and places of worship need to be close to or within the catchment area of the community they serve (para 11.44) Paragraph 11.39 indicates a presumption in favour of such uses in residential areas provided the activities do not cause unacceptable disturbance to occupiers of nearby properties as defined by policy PS10; and provided traffic and parking would not have an unacceptable impact on adjacent residents. The site is well served by buses along St Barnabas Road and Uppingham Road. The acceptability of the change of use therefore hinges on the impact of the development on traffic and parking in the area, and amenity considerations such as noise.

Appearance

The only physical change to the exterior elevations would be the small link building at the rear of the site, which would not be visible from the street and therefore I have no concerns on appearance grounds. However the French Road forecourt includes a small unkempt area of overgrown land. I would recommend that a condition should be attached to any approval requiring the forecourt to be repaved and this area to be re-planted.

Traffic and parking

The current floor area is approximately 625sq m and the new building would provide a further 1450sq m. The site is within LCC parking zone 4, which requires 1 space per 22sqm for D1 use, giving a maximum of 66 spaces for the extension.

The Design and Access statement states that on weekdays usage is at present relatively light, with devotees attending the Temple for worship throughout the day and classes in the early evening. Those dropping off and picking up children for these classes may themselves briefly visit the temple. The pattern is similar on Saturdays but busier. Peak usage is on Sundays from lunchtime onwards when 300 to 400 people may attend throughout the course of the day. Special events are sporadic and normally take place at weekends.

The Transport statement states that an increase in vehicle movements is not anticipated, as the purpose of the extension is to provide better facilities for the existing users. The Transport Statement states that peak visitor numbers would continue to occur at evenings and weekends. This is a time when traffic volumes are lighter compared to daytime use, and are less likely to affect adjacent businesses.

However it would be at a time when residents are at home and parking is at a premium.

The Transport Statement suggests that up to 8 off-street parking spaces could be provided on French Road, but these are not indicated on the site layout. As the forecourt has a depth of only 3m, the parking spaces which could be provided here are unlikely to exceed 3. The current B2 use requires 20 spaces according to vehicle parking standards guidance. The Transport Statement mistakenly assumes that the activities of the window manufacturing business in units 2 and 3 would be reduced as a result of this application. This is not the case; it is the business occupying unit 1 which would need to relocate. However only the front of this unit is currently occupied, the rest of the unit being vacant. The cessation of this use is in my view unlikely to have much effect on the traffic situation.

I accept the applicant's statement that it is not the intention to increase the numbers attending the premises for regular activities. However an increase may occur nonetheless simply as a result of the increased space available - for example, in the number of classes and in the numbers attending. I do not consider that this alone would have a significant impact on the traffic and parking situation, as the numbers involved would be relatively small.

The applicant also states that it is not intended that the number of special events will increase beyond the existing. However, the larger area and the improved kitchen facilities could make the premises more attractive for this purpose.

Clearly, given the restrictions of the site, it would be very difficult to achieve the maximum standard of 63 spaces for the extension. Also this would result in a large parking area which would be virtually unused for long periods. There is an existing condition which restricts to 30 per year the number of events where the hours of use can be extended to 2400, and this is subject to the prior agreement of the City Council. It should be noted however that this condition does not limit the number of people who can attend special events, merely the number of occasions when the event can continue until 2400. I propose that this condition and the existing hours of use should be retained

I also consider that a Travel Plan would be required by condition. The Travel Plan should show propose measures for minimising the number of private vehicle trips by walking, cycling, public transport and car sharing initiatives. The Plan should also include a schedule of large events such as weddings, receptions, religious and cultural events, with the expected visitor numbers and the arrangements to be put in place to deal with such events.

I consider that the above conditions would be sufficient to minimise the risk of unreasonable further disruption to residents and businesses in the area as a result of increased traffic and parking.

Noise

The single storey part of the building, in which the proposed dining room would be located, has a saw-tooth type roof, with northerly glazed roof lights. This type of roof is difficult to insulate for acoustic purposes. However noise emission would be

contained to some extent by the two-storey part of the building which lies in front, and on the other sides the building is mainly surrounded by non-residential uses.

There are no hours of use restriction on the existing permitted general industrial use, which could also be noisy. Given this and the proposed conditions relating to hours of use, I do not consider that there are grounds for refusing the application for noise reasons.

Energy

The energy statement proposes the use of reverse cycle heat pumps, condensing combi boilers and improved efficiency. I consider that a condition should be attached to require further information to demonstrate how the proposal would meet local and national energy targets.

Third party issues

The existence of a right of way and the operation of the sprinkler system are matters outside planning control. Unlawful parking is subject to separate enforcement procedures

Conclusion

Off-street parking provision for the existing Place of Worship is currently below recommended standards. This report has to consider what the additional impact of the proposed development would be on the area compared to what is presently experienced.

I consider that retention of the existing conditions which restrict the hours of use, together with additional measures to limit the use of the private car, which would be contained in the Travel Plan, would be sufficient to ensure that the additional impact is within acceptable bounds. I recommend approval subject to the following conditions:

CONDITIONS

1. START WITHIN THREE YEARS
2. Before the development authorised by this permission is begun, a detailed landscaping scheme showing the treatment of the French Road forecourt shall be submitted to and agreed in writing with the City Council as local planning authority. This scheme shall include details of: (i) new planting to the existing planted area, including plant type, size, quantities and locations; (ii) other surface treatments including all hard landscaped areas, including an investigation of the use of permeable paving. 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 policies PS10 and UD01 of the City of Leicester Local Plan.)

3. The use shall not be carried on outside the hours of 0800 to 2130 hours, Mondays to Thursday, 0800 to 2300 hours Fridays and Saturdays and 0800 to 2230 hours on Sundays; except as permitted by condition 2 below.
(In the interests of the amenity of nearby occupiers and in accordance with policy PS10 of the City of Leicester Local Plan).
4. In addition to the hours specified in condition 2 above, the premises may also be used on no more than 30 days each year between the hours of 0800 to 2400, subject on each occasion to the agreement in writing of the City Council as local planning authority being given at least 21 days before each occasion.
(In the interests of the amenities of nearby occupiers).
5. There shall be no live or amplified music or voice played which would be detrimental to the amenities of occupiers of nearby properties.
(In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
6. Before the use is begun, details of the ventilation system shall be submitted to and agreed in writing with the City Council as Local Planning Authority, and shall be installed and maintained thereafter only in accordance with the agreed details. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
7. The development shall not be occupied until the footway crossing on French Road has been altered to the satisfaction of the City Council as local planning authority. (To achieve a satisfactory means of access to the highway, and in accordance with policy AM01 of the City of Leicester Local Plan.)
8. A Travel Plan relating to the development shall be submitted to and agreed in writing with the City Council as local planning authority before the use of 8 French Road is begun. The Travel Plan shall include measures and targets for minimising the number of private vehicle trips by encouraging walking, cycling, public transport and car sharing initiatives and shall identify modal splits, proposals, targets, objectives, time scales and monitoring techniques. The Plan shall also include a schedule of large events (to be defined) with the expected visitor numbers and the arrangements to be put in place for dealing with the peak demands for major functions such as weddings, receptions, and religious and cultural events, with particular emphasis on the management of the likely car parking demand. The Travel Plan shall be submitted to and agreed by the City Council as the local planning authority before the development is commenced and shall be implemented in accordance with the agreed details. The Plan shall identify a co-ordinator and point of contact for the purpose of the plan. (In the interest of sustainable transport system and in accordance with policies PS03 and PS10 of the City of Leicester Local Plan.)
9. Before the development commences, details of the development's ability to contribute towards the Regional and Local Plans' target of 13% of the total predicted energy demand for the site to be renewable energy, and design details of how the development will contribute towards energy conservation

through reducing consumption, shall be submitted to and agreed in writing with the City Council as local planning authority. Within 4 weeks of the occupation of any part of the development, evidence shall be submitted to and agreed in writing with the City Council as local planning authority which demonstrates the satisfactory operation of any on-site installation. (In the interests of sustainable development and in accordance with policies UD04 and BE16 of the City of Leicester Local Plan.)

10. The premises at 8 French Road shall only be used in conjunction with the existing community centre and place of worship at 34 St Barnabas Road and shall not function as an independent unit. (The City Council would wish to give further consideration to the implications for traffic generation and local amenity of the separate use of these premises, in accordance with policy PS10 of the City of Leicester Local Plan)
11. This consent shall relate solely to the drawings E1051 P02 and E1051 PO4 received by the City Council as local planning authority on 28 October 2008 unless agreed otherwise in writing with the City Council as local planning authority. (For the avoidance of doubt.)

NOTES FOR APPLICANT

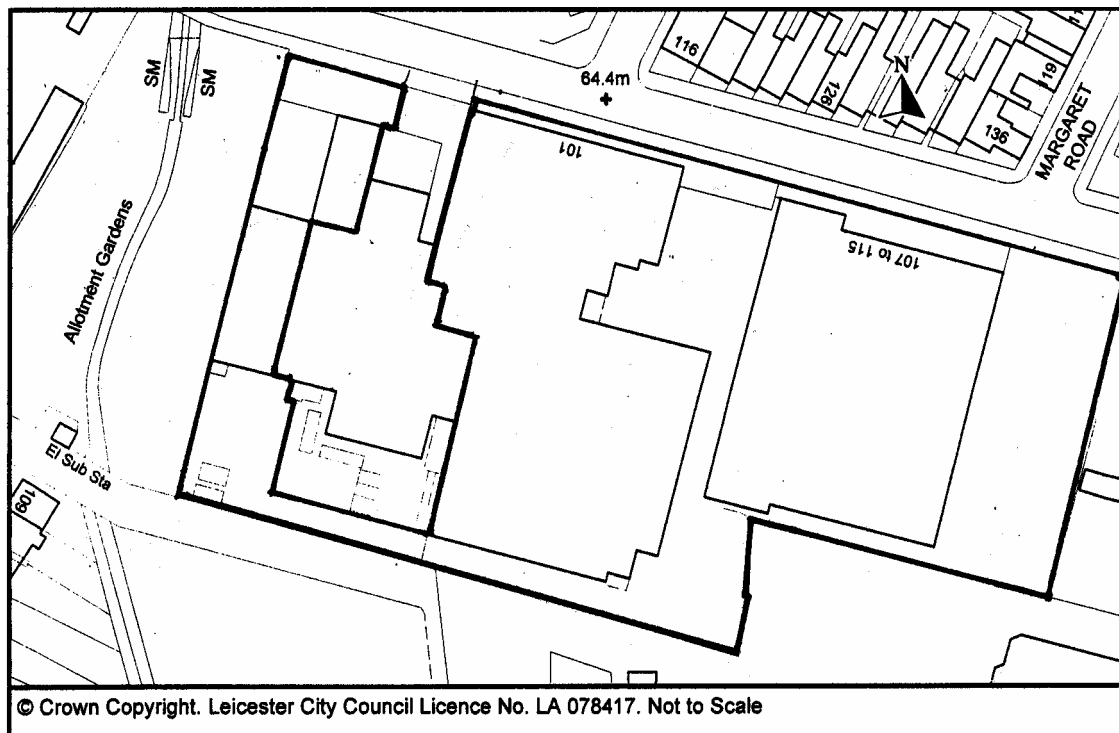
1. If the applicant is unable to comply with condition 5, an insulation scheme may be required to be agreed and implemented in order to comply with this condition.
2. With regard to condition 8 regarding the Travel Plan please contact Bal Minhas in the Highway Authority on 0116 252 6523.
3. The applicant is advised to contact Michael Lambert Police Architecture Liaison officer (tel 222 2222 ext 5942) concerning site security and ways to improve this.
4. **REASON FOR APPROVAL.** In the view of the City Council, the proposal complies with the relevant criteria in the City of Leicester Local Plan policies listed in this decision, and there are no material considerations which outweigh these policies. The City Council considers that any harm to residential amenity arising from the development can be overcome by the attached conditions.

Policies relating to this recommendation

2006_PS03	Planning permission will be granted for development where it is in accordance with the objectives and policies of the Local Transport Plan.
2006_PS10	Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
2006_UD04	Planning permission will not be given for development proposals which would fail sufficiently to achieve efficiency in the use of energy.
2006_UD01	Planning permission granted for sustainable high quality building designs providing proposals take into consideration criteria.

- 2006_AM01 Planning permission will only be granted where the needs of pedestrians and people with disabilities are incorporated into the design and routes are as direct as possible to key destinations.
- 2006_AM11 Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.
- 2006_BE17 Planning permission will be granted for infrastructure associated with combined heat and power schemes where local impacts are not outweighed by wider benefits. Major developments and those within the SRA must source their energy from CHP where feasible.
- 2006_BE20 Developments that are likely to create flood risk onsite or elsewhere will only be permitted if adequate mitigation measures can be implemented.

Recommendation: Conditional approval	
20090309	101 GWENDOLEN ROAD, UNITS 1 & 2
Proposal:	CHANGE OF USE OF UNIT 1 FROM FACTORY (CLASS B2) TO FITNESS CENTRE (CLASS D2) AND UNIT 2 FROM FACTORY TO FUNCTION HALL (CLASS D2). EXTENSION TO UNIT 2. EXTERNAL ALTERATIONS.
Applicant:	MR ZAK SARANG
App type:	Change of use
Status:	Small-scale Major Development
Expiry Date:	24 June 2009
DW1	WARD: Spinney Hills



Summary

- The proposal is for a fitness centre and function hall
- It involves the loss of buildings within a primarily employment area to a non employment use;
- Representations have been received both for and against the proposal
- The main issues are the loss of employment land, traffic/parking and the impact on residential amenity.
- The proposal would provide new uses for buildings that are currently unused and enhance the range of facilities available for the community in this area of the city.
- The recommendation is for approval with conditions including restrictions on some uses.

Introduction

The site is on the south side of Gwendolen Road and forms part of a Primarily Employment Area that extends through to Chesterfield Road. It is occupied by a number of industrial buildings now in a variety of uses as described below, that were previously part of an engineering factory (H C Pretty). The application is for the change of use of Units 1 and 2 at 101 Gwendolen Road but the application site boundary incorporates various areas of hardstanding around No 101 and to the front, rears and sides of 91-95 and 107-115 Gwendolen Road.

There is a row of terraced houses directly opposite the site on Gwendolen Road that form part of a Primarily Residential Area comprising mainly terraced housing that extends northwards interspersed by small employment areas. The surrounding area to the west is also Primarily Residential separated from the site by allotment gardens. The area to the south and east is similarly a mix of employment, residential and education uses. Very few properties in the surrounding area have off street parking and as a consequence parking in the area is generally on street. No waiting is permitted on Gwendolen Road along the site frontage and is restricted during the day on the opposite side.

Background

The planning history for No 91-95 suggests the permitted use is as an ice cream factory. There was an application made for the change of use of No 91 from a factory to a health and fitness club in 2001 (20001897) but this was withdrawn. No. 91-95 is divided into a number of units with one used as a fitness centre (S/S Fitness) and another is used a car repairers. There is a current application for the change of use of a unit to the rear to a taxi booking office (20090751).

101 Gwendolen Road comprises two units with lawful General Industrial use (Class B2). The majority of Unit 1 is vacant but the upper floor of the front section is advertised as being a snooker club and there are two smaller ground floor units fronting Gwendolen Road used as a nursery and offices. Unit 2, which is set back from Gwendolen Road, is vacant.

107-115 Gwendolen Road are industrial premises (Class B2) used for textile manufacturing with associated offices.

The Proposal

Change of use of Unit 1 from general industrial (Class B2) to a health and fitness centre (Class D2); the application plans show a reception area at the front of the building, separate male and female fitness areas and a sports hall with an area of about 460m² at the rear. Some minor changes to the building's front elevation are also proposed.

Change of use of Unit 2 from general industrial (Class B2) to a function hall (Class D2); the main hall would have a floor area of about 534m² with a kitchen and other ancillary rooms off it. Also proposed is a single storey extension with canopy to the front of the building to form a new entrance area and the remainder of the front elevation would be clad using a composite cladding system coloured grey.

The opening hours proposed are as follows:

- Unit 1 (fitness centre): 0700 – 2300 Monday to Saturday; 0800 – 1400 Sunday.
- Unit 2 (function hall): 1230 – 2330 Monday to Thursday; 1000 – 2300pm Friday to Sunday

86 car parking spaces would be provided within the site. The application plans also show an area for bike parking.

The application is accompanied by a Transport Assessment; Sustainability Strategy dealing with renewable energy options and a Design & Access Statement.

Policy Considerations

City of Leicester Local Plan policies relevant to this application are listed at the end of this report of which the key ones are:

PS10: seeks to ensure the amenities of existing residents are protected.

AM11: requires that parking provision for non-residential development does not exceed specified maximum standards and indicates that reductions below these standards will be required in accordance with the City Council's reduction targets after consideration of a number of criteria. These include access by other means of transport and the consequences of under provision in a particular location.

SPA05: requires that key city centre uses including sports and leisure development uses are located on appropriate sites within the City Centre.

E03: allows for changes of use of land within Primarily Employment Areas to non-employment uses provided one of the policy's six criteria are met.

Planning Policy Statements/Guidance

PPS6: Planning for Town Centres.

Supplementary Planning Documents/Guidance

Vehicle Parking Standards SPG (updated 2006)
Energy Efficiency & Renewable Energy (November 2005)
Employment Land (December 2007).

Consultations

Noise Team: no objection to the proposed change of use of unit 1 from factory to gym. Recommend refusal of the change of use of unit 2 from industrial to function hall as there is terraced housing on Gwendolen Road opposite the site with potential for noise nuisance from both amplified music from venue and from people and vehicles moving to and from the parking areas. It is noted that it is a large building and could be used as a wedding venue with large numbers of attendees. If permission is granted the opening hours should be restricted by condition to 23.00hrs weekdays and Saturdays and, 22.00hrs Sundays and Bank Holidays. A sound insulation scheme including sound limiter should also be required by condition.

Highway Authority: have raised concerns about the level of parking and technical aspects of the Transport Assessment supporting the application which it is felt does not adequately address the potential highway impact of the proposed development.

Representations

A petition against the application with 30 signatures has been received. The summarised grounds of objection are as follows:

- Parking - proposal will add to existing parking problems in the area. There would not be enough spaces to cater for all visitors and it is unlikely that everyone visiting the premises would use them as currently happens with people using the existing S & S Fitness Centre.
- Increased noise pollution – even if the building is sound proofed there will be no control over people arriving and leaving. People do not normally disperse after a function ends which will result in late night noise affecting nearby residents.
- Anti social behaviour – if the application were approved there would be further applications to allow for the sale of alcohol at the premises. This will increase the likelihood of noise, disruptive boisterous behaviour and even violence in and around the premises.

An email making reference to existing parking problems in the area has also been received, but no property address was given.

215 pro-forma letters in support of the application have been received. The letter makes reference to the regeneration benefits of the proposal, that it will provide a valuable service and facility within the local area and that there is a requirement for this type of development within the local community. The signatories are from addresses in the Spinney Hills and North Evington areas, other areas around the city and also areas outside the city boundary. Five are from addresses in the immediate vicinity of the site i.e. Gwendolen Road and Dorothy Road.

A letter of support has also been received from S & P Coil Products who have premises close to the site, stating that the proposal would provide an extremely useful addition to the amenities available in the area.

Consideration

The main issues are:

- Whether the application site is an appropriate location for the proposed uses;

- Whether the loss of employment land within a Primarily Employment Area to a non-employment use is acceptable;
- The effect on the living conditions of nearby residents;
- The effect on parking and traffic conditions in the area.

Location – the proposed uses are main town centre uses as defined in Planning Policy Statement 6. Such uses should normally be located in town centres for sustainability reasons as they are usually accessible other than just by car. This is reflected in policy SPA05 of the Local Plan. The site is not particularly well served by public transport although there are bus routes nearby and as such a proportion of journeys to the site will inevitably be by car. The proposal is however aimed at providing facilities to serve the local community, which would encourage local use, and shorter journeys, which could be made on foot for example. I consider this, combined with a travel plan which can be secured by conditions, would ensure that the proposal does not result in an unsustainable form of development or harm the aims of policy SPA05.

Employment land – the site is graded as D in the Leicester Employment Land and Premises Assessment Study (January 2006), which provided the evidence base for the Employment Land Supplementary Planning Document. Grade D sites/areas are those in lower quality locations in residential areas suffering from poor accessibility. The assessment of the PEA in which the site falls refers to it being ‘an area of poor quality buildings but which provides important, local small business space irrespective of the fact that they are coming to the end of their economic life’. The associated policy (E03), sets out a number of criteria against which applications should be assessed and are explained further in the SPD. Only one of these criteria has to be met for a proposal to comply with the policy and in my opinion criterion f relating to a need for local community facilities is relevant in this case.

The Employment Land Supplementary Planning Document requires amongst other things that a clear need for the community facility be demonstrated from residents within the area and that a list of alternative buildings that have been considered should be submitted. This should include details explaining why each one was not suitable in order to confirm that there are no other sites available. This has not been done, but it is accepted that this part of the city is not well served by the types of facilities proposed, there is a level of support for the proposal as indicated by the letters submitted as referred to above and, any other building in the area which could be suitable is similarly likely to be within an employment area with the same constraints. As well as the improvements to the range of community facilities in the area resulting from the proposal, I consider weight needs to be attached to the fact that the buildings are outdated, have poor servicing arrangements, are only realistically suitable for manufacturing which is in decline and are generally likely to be unattractive to modern businesses. The proposal will also result in investment in the buildings and an improvement in their appearance that would benefit the area generally. On balance, I consider the proposal would not harm the aims of policy E03.

Living conditions – the buildings were previously used as an engineering factory and in my opinion, the lawful use of both units 1 and 2 is likely to be general industrial (Class B2). Uses within Class B2 would not normally be appropriate in close

proximity to residential areas and there are no conditions that currently restrict the hours of use of the buildings or deliveries to them. Weight therefore has to be attached to the noise and disturbance that could potentially be generated if a general industrial use was to resume. The proposal offers the opportunity to require the building to be sound insulated which can be secured by conditions. A suitably designed scheme should attenuate any noise from music for example to a level whereby it would not harm the living conditions of neighbours.

The other potential source of disturbance would be from large numbers of people leaving the function hall in the late evenings with noise coming from vehicles manoeuvring, car doors being closed and people talking. This cannot be controlled other than by restricting opening hours to ensure activity is not taking place at times when people living nearby could reasonably expect to be sleeping. Taking into account the mixed character of the area, the lawful use of the site and the relatively close proximity of residential properties on Gwendolen Road, in my opinion a condition restricting the opening hours of the function hall to 2300 hrs daily rather than 2330 on some days as proposed, would strike a reasonable balance in terms of protecting the living conditions of neighbours whilst not being unduly restrictive to the operation of function hall. On this basis I consider the proposal to be acceptable in terms of policy PS10.

Parking and traffic – parking in the surrounding area is difficult as very few properties have off street parking, and at the times officers have visited the site they have observed that very little on street parking was available. On street parking along Gwendolen Road is also restricted in the vicinity of the site. The proposed uses, particularly the function hall, could occasionally generate high numbers of car borne visitors to the site who would need to park. Compared to the lawful Class B2 use of the buildings which would require 38 spaces, the maximum parking suggested for the D2 uses proposed is much higher - 119 spaces compared with the 86 parking spaces proposed. These would be provided through the use of existing parking areas within the application site – this includes the car park on the east side of No. 107-117, spaces along the front of this building, to the front of No. 91-95 with other existing areas of hardstanding around the site to be marked out to provide further spaces. This is lower than the maximum standard but policy AM11 indicates reductions will be sought where appropriate. Additional information submitted by the applicant states that a parking strategy would be in place for every function where a high demand for parking is expected. A proposed package of measures to reduce parking demand is also outlined. This can form part of a travel plan for the function hall and I would recommend a suitable condition. The applicant has also indicated that additional parking may be secured on an informal basis at nearby premises when required.

The sharing of parking used by other buildings within the site rather than having dedicated parking for the proposed uses is appropriate as this makes the best use of land and as demand for parking for the function hall, for example, is likely to be highest in the evenings and at weekends when it lowest for the existing businesses. A condition is however recommended to prevent units 1 and 2 being linked to create a larger venue with a resultant greater parking demand. In my opinion the level of parking proposed combined with the measures outlined above would be sufficient to ensure that existing parking and traffic problems in the area would not become materially worse as a result of the proposal.

Other Issues – issues relating to the sale of alcohol raised in the objections would be considered and dealt with if and when a licensing application was submitted. I recommend APPROVAL subject to the conditions below:

CONDITIONS

1. START WITHIN THREE YEARS
2. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the agreed details. (To ensure that the appearance of the development is satisfactory and in accordance with policy UD01 of the City of Leicester Local Plan)
3. The uses hereby permitted shall not be commenced until the car parking spaces shown on the drawing No 09/02/33 3 have been provided, with the individual parking spaces marked out, and available for use. The car parking spaces shall be retained at all time thereafter and not obstructed in any way so as to prevent the parking of cars. (To ensure an adequate level of off street parking for the site is provided and maintained in the interests of road safety and in accordance with policy AM11 of the City of Leicester Local Plan)
4. The use shall not take place outside the hours of 0700 - 2300 daily. (To protect the living conditions of the occupiers of nearby residential properties on Gwendolen Road in accordance with the aims of Policy PS10 of the City of Leicester Local Plan)
5. A Travel Plan relating to the development shall be submitted to and agreed in writing by the local planning authority before the first use of Unit 2 as a Function Hall as hereby permitted. The Travel Plan shall include measures and targets for minimising the number of private vehicle trips by encouraging walking, cycling, public transport and car sharing initiatives and shall identify modal splits, proposals, targets, objectives, time scales and monitoring techniques. The Plan shall also include details of a parking management strategy to be implemented for every function where a high demand for parking is likely due the expected visitor numbers. The Plan shall also identify a co-ordinator and point of contact for the purpose of the Plan. The Travel Plan shall be implemented in full accordance with the agreed details. (To encourage the use of alternative and more sustainable modes of travel to the site, to reduce the demand for parking in the area and to ensure parking arrangements at the site are managed so as not to increase parking problems in the area in accordance with policies PS03, AM11 and PS10 of the City of Leicester Local Plan.)
6. The uses hereby permitted shall not be commenced until a sound insulation scheme for both Units 1 and 2, including noise limitation devices, has been installed in accordance with details that have first been submitted to and agreed in writing by the local planning authority. The scheme shall be designed so as to ensure that noise from activities taking place within the units

or music played or performed within them would not be audible at any point more than 20 metres as measured from the front (north facing) elevations of Units 1 and 2. (To protect the living conditions of nearby residential occupiers and in accordance with Policy PS10 of the City of Leicester Local Plan)

7. The use of Unit 2 as a Function Hall shall not be commenced until facilities for the storage of refuse bins have been provided in accordance with details that have first been submitted to and agreed in writing by the local planning authority. The bin storage facilities shall be retained for such use thereafter. (To ensure adequate facilities are provided for the storage of refuse bins in the interests of the appearance of the area)
8. Unit 1 shall be used for a Fitness Centre and for no other purpose (including any other purpose in Class D2 of the Schedule to Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). (Other uses within Class D2 could result in a higher number of people using the premises which would be likely to increase the demand for parking beyond which could be accommodated within the site)
9. No external ventilation air conditioning, extraction or similar plant or equipment shall be installed other than in accordance with details that have first been submitted to and agreed in writing by the local planning authority. (To protect the living conditions of nearby residents and in accordance with Policy PS10 of the City of Leicester Local Plan)
10. Before the uses hereby permitted are commenced details of the development's ability to contribute towards the Regional and Local Plans' target of 13% of the total predicted energy demand for the site to be renewable energy, and design details of how the development will contribute towards energy conservation through reducing consumption, shall be submitted to and agreed in writing by the local planning authority. Within 4 weeks of the occupation of any part of the development, evidence shall be submitted to and agreed in writing by the local planning authority which demonstrates the satisfactory operation of any on-site installation. (In the interests of sustainable development and in accordance with policies UD04 and BE16 of the City of Leicester Local Plan.)
11. The uses hereby permitted shall not be commenced until secure and covered cycle parking facilities to serve both Units 1 and 2 has been provided in accordance with details that have first been submitted to and agreed in writing by the local planning authority. The cycle parking facilities shall be retained for such use thereafter. (To ensure adequate cycle parking facilities are provided to encourage sustainable travel and in accordance with Policy AM02 of the City of Leicester Local Plan)

NOTES FOR APPLICANT

1. **REASON FOR APPROVAL.** In the view of the City Council, the proposal complies with the relevant criteria in the City of Leicester Local Plan policies

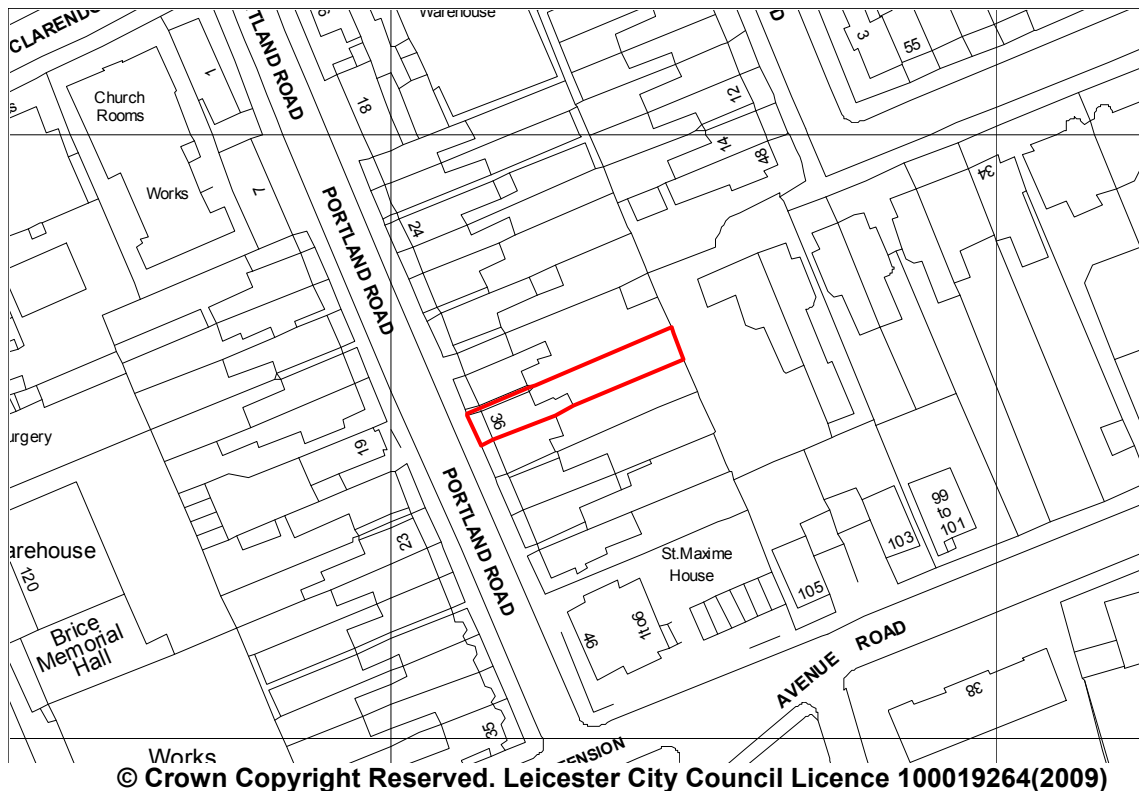
listed in this decision, and with relevant Supplementary Planning Documents and Guidance, and there are no material considerations which outweigh these policies. The City Council considers that any potential harm to residential amenity, parking and traffic conditions in the area can be overcome by the attached conditions.

2. This decision relates to the application as amended by drawing No 09/02/33 3 received the local planning authority on 7 July 2009.

Policies relating to this recommendation

2006_AM01	Planning permission will only be granted where the needs of pedestrians and people with disabilities are incorporated into the design and routes are as direct as possible to key destinations.
2006_AM11	Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.
2006_E03	Planning permission granted for the development of appropriate B1, B2 and B8 uses in Primarily Employment Areas and not for changes to other uses unless it meets criteria.
2006_PS10	Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
2006_SPA05	Key City Centre uses and facilities will be required to locate on appropriate sites within the City Centre.
2006_UD01	Planning permission granted for sustainable high quality building designs providing proposals take into consideration criteria.
2006_UD04	Planning permission will not be given for development proposals which would fail sufficiently to achieve efficiency in the use of energy.
2006_PS03	Planning permission will be granted for development where it is in accordance with the objectives and policies of the Local Transport Plan.
2006_UD04	Planning permission will not be given for development proposals which would fail sufficiently to achieve efficiency in the use of energy.
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_BE16	Planning permission will be granted for the development of renewable energy installations where local impacts are not outweighed by wider benefits. Major developments must realise their potential for incorporating renewable energy technologies.

Recommendation: Conditional approval	
20090473	36 PORTLAND ROAD
Proposal:	REPLACEMENT WALL & RAILINGS TO FRONT OF HOUSE (CLASS C3)
Applicant:	MR STEPHEN KELLY
App type:	Operational development - full application
Status:	Householder development
Expiry Date:	23 July 2009
WJJ	WARD: Castle



Summary

- A mid-terraced house located within the Stoneygate Conservation Area and covered by an Article 4 Direction.
- Three objections, including one from the Conservation Advisory Panel, on the grounds that the railings would be detrimental to the character and appearance of the conservation area.
- The main issue is whether the proposal would either detract or maintain and enhance the conservation area.
- The railings would maintain the character and appearance of the area and therefore the recommendation is for conditional approval.

Introduction

The property is a Victorian terraced house located within a Primarily Residential Area of similar properties.

The Proposal

The proposal is for railings to the front of the house flanked by brick pillars and a brick sidewall. The railings and side wall will not exceed 1m in height. The pillars are marginally above 1m in height.

Policy Considerations

City of Leicester Local Plan policies relevant to this application are listed at the end of this report.

The property is within the Stoneygate Conservation Area and it is covered by an Article 4 Direction.

Supplementary Planning Document (SPD) – Residential Amenity.

Consultations

Conservation Advisory Panel (CAP) – The Panel noted that this is a Victorian street with walls and they thought that a dwarf wall and railing would be out of character with the street scene.

Representations

An objector states that the street is characterised by walls. To demolish the wall and replace it with railings would be incongruous.

Stoneygate Conservation Area Society felt that the aim of the proposal is good however the design of the railings is modern and would not suit the property or the locality.

Consideration

At just under 1m in height the proposed railings will allow surveillance of the street to take place from the house at number 36. This is desirable as it discourages crime.

Most of the properties along Portland Road have low front walls. Most are about a metre high with slightly higher pillars at each end. A significant minority of properties have no front wall but have a hedge or they have a dwarf wall with a hedge behind.

One property on the street has railings. Most of the walls appear to have been built in the last few decades. In themselves they are not of great architectural merit nor do they closely correspond to the design of the houses. No two walls appear alike. However the overall impression of the street is that the properties are well looked after and cherished by their occupants and the street scene is therefore pleasant.

Concern has been raised that the proposed railings are not in a style contemporary to the Victorian houses on the street however neither are most of the existing walls including the existing one at this house. The one house in the street that presently has railings does not in my view appear incongruous and I do not believe the proposed railings will be either. I am satisfied that the proposal will maintain the character and appearance of the conservation area.

I therefore recommend APPROVAL subject to conditions.

CONDITIONS

1. START WITHIN THREE YEARS

2. This consent shall relate solely to the submitted plans received by the City Council as local planning authority on the 28th May 2009 unless otherwise agreed in writing with the City Council as local planning authority. (For the avoidance of doubt.)

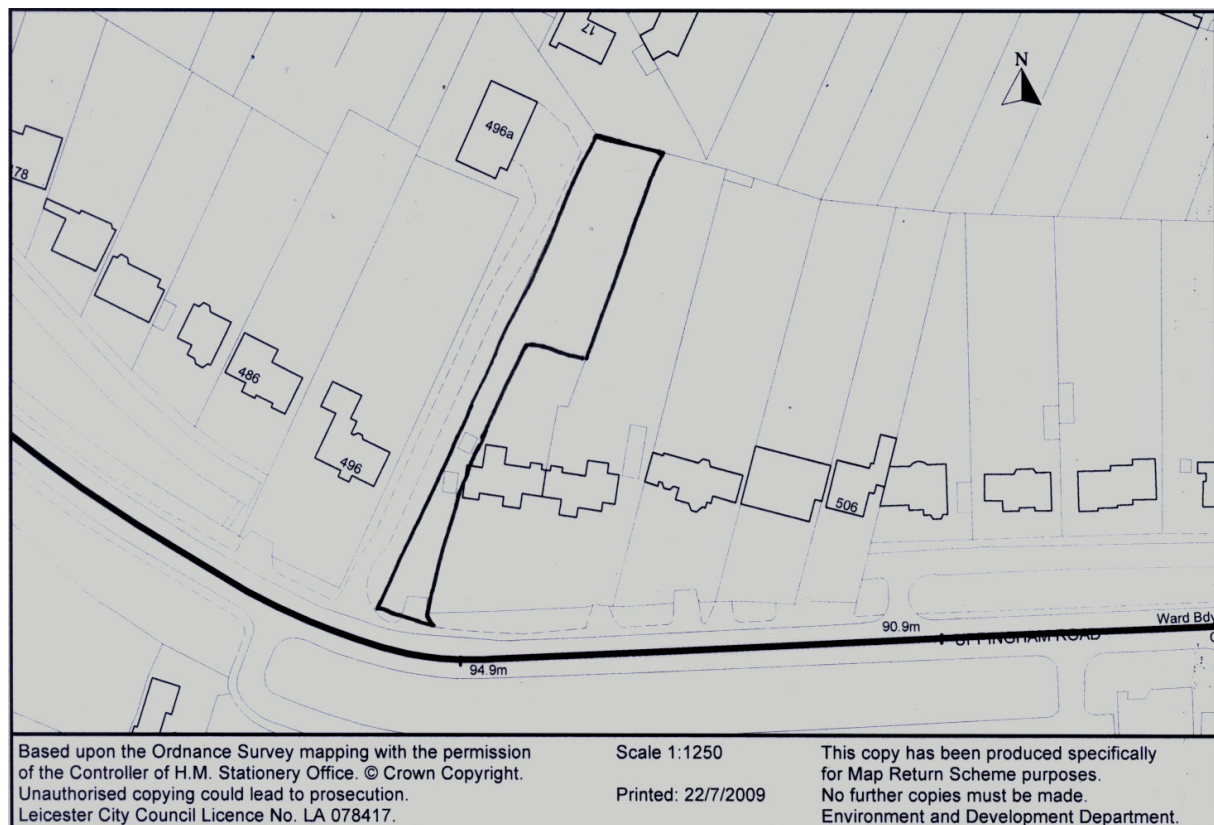
NOTES FOR APPLICANT

1. **REASON FOR APPROVAL.** In the view of the City Council, the proposal complies with the relevant criteria in the City of Leicester Local Plan policies listed in this decision, with Supplementary Planning Document (SPD) - Residential Amenity, and there are no material considerations which outweigh these policies.

Policies relating to this recommendation

2006_PS10	Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
2006_UD01	Planning permission granted for sustainable high quality building designs providing proposals take into consideration criteria.
2006_UD02	Planning permission will be given for new development where buildings make a positive contribution to the street scene and create a sense of identity.

Recommendation: Refusal	
20090502	498 UPPINGHAM ROAD; LAND AT REAR OF
Proposal:	ONE DETACHED HOUSE (1 X 4BED) (CLASS C3)
Applicant:	MR KULDIP SINGH
App type:	Operational development - full application
Status:	Minor development
Expiry Date:	19 August 2009
SSA	WARD: Thurncourt



Summary

- The site is located in a Primarily Residential Area as defined by the City of Leicester Local Plan;
- Twelve letters of objection have been received including one from Councillor John Allen raising concerns relating to amenities, noise, impact on the character of the surrounding area, trees, protected species, highway safety and amenity;
- Councillor Bajaj has requested the application be considered by your committee;
- The main issues are: the impact of the development on the future development capacity of neighbouring land, impact on the character of the surrounding area, trees, protected species, highway safety and amenity;
- The proposal does not demonstrate comprehensive development and is likely to have a significant impact on the character of the surrounding area, trees, protected species, highway safety and amenity;
- The proposal is recommended for REFUSAL.

Introduction

The application site comprises of a plot of land to the rear of 498 Uppingham Road in a Primarily Residential Area as defined in the City of Leicester Local Plan. It is set back from the highway of Uppingham Road by approximately 60 metres with vehicle access to be provided through the existing access. There are a number of trees on site protected by a Tree Preservation Order and Uppingham Road is a classified road.

Background

In 2008 (20081291) an application seeking the construction of one six-bedroom house was withdrawn.

In 1978 (19781636) consent was refused for the construction of a bungalow to the rear of the house. The reasons were the proposal would restrict the future development of the adjoining rear gardens; it represented unsatisfactory backland development and was detrimental to highway safety.

In 1956 (87793) consent was granted for the construction of a garage to the house. This appears to have been implemented.

The Proposal

The proposal involves the construction of one, detached four-bedroom house to the rear of 498 Uppingham Road. The house is to be located a distance of 17.1 metres from the main house and measures 10.9 metres (length) x 13.1 metres (width) x 10.5 metres (height). It will be constructed from red facing bricks and cement render for the walls and dark brown roof tiles.

Access is to be provided directly off Uppingham Road through an extension to the existing access serving 498 Uppingham Road. Two parking spaces are proposed for the house and a minimum of two will be retained for the existing house.

Policy Considerations

PPS3 Housing.

City of Leicester Local Plan policies relevant to this application are listed at the end of this report.

Policy H14 of the Local Plan states backland development will be acceptable so long as:

- The development potential of adjoining land is not compromised.
- The access is designed so as to serve possible future development.
- The design of the development will respect the character and appearance of the area.
- Maintain the amenities of neighbouring properties.

The adopted SPD Residential Amenity and adopted SPG Vehicle Parking Standards also apply.

The adopted SPG Tree Protection also applies.

Consultations

The Local Highway Authority has advised that the application be refused due to concerns relating to highway safety by reason of an intensification of an existing access onto a classified road.

Representations

Councillor Bajaj has requested the application be considered by your committee.

The application was publicised by letters to neighbours and a site notice and twelve letters of objection have been received including one from Councillor John Allen. The concerns raised are as follows:

- The house would lead to a loss of privacy, outlook and light and have an overbearing impact on occupiers of neighbouring properties;
- Increased noise and disturbance;
- The design is out of character with the surrounding area;
- Cause subsidence to neighbouring properties;
- The front garden of 498 Uppingham Road is in use for the storage of commercial vehicles. This matter is being investigated separately;
- It would result in the destruction of a bat habitat;
- Loss of trees protected by a Tree Preservation Order and;
- It would have an adverse impact on highway safety leading to increased numbers of accidents and numbers of vehicles using the access.

Consideration

The application relates to land in a Primarily Residential Area and new dwellings are acceptable in principle subject to relevant policies in the Local Plan particularly policy H14 for Backland Developments.

The key issues are therefore the acceptability of the proposal in respect of the backland development policy, highway safety, protected species and impact on protected trees together with residential amenity and third party representations.

Future Development

Policy H14 of the City of Leicester Local Plan requires new development to ensure that any development potential of adjoining land is not prejudiced and suitable access capable of future expansion be provided. The properties on this side of Uppingham Road and in the immediate vicinity of the applicant site are of suburban quality (detached or semi-detached) with large gardens.

Backland development of the type proposed is best considered in the context of a wider development framework. Hence, the proposal needs to demonstrate that the road network can be logically extended as opposed to the slotting in of narrow private drives between and to the rear of existing dwellings. No details have been submitted and the proposal therefore fails to demonstrate how the land can be developed without prejudicing the development capacity of adjoining land. It is therefore contrary to PPS 3: Housing and policy H14 of the City of Leicester Local Plan.

Highway Safety

The site access is located on the inside of a substandard bend on the A47 where visibility along Uppingham Road is severely restricted. At a point 2.4m back the nearside kerb, visibility to the right is limited to about 60m due to the bend and the dense hedge at the back of the footway/verge. Visibility looking to the left is similarly restricted, currently to less than 30m. It is possible to increase this visibility by grubbing-out and setting back the front boundary along no.498, but this would still

only achieve a sight distance of 70m. The level of visibility to the left and right is therefore well below the City Council's recommended standard of 120m. The existing access is therefore very concealed and inter-visibility between users of the access and drivers on the A47; does not meet the standards of the LHA or the Dept. of Transport's '*Design Manual for Roads and Bridges*'.

There have been 5 personal injury accidents over a 3-year period on the section of Uppingham Road in the immediate vicinity of the access. Four of these accidents involved vehicles losing control on the bend and 1 involved a stationary vehicle waiting in a queue. The substandard road alignment and vehicle speeds are clearly a problem on this busy principal road and any additional turning traffic movements on the hazardous bend are considered to constitute a potential danger.

The development should also be able to demonstrate that 2 vehicles can park within the curtilage, together with sufficient manoeuvring area to enable any vehicle to leave in a forward direction. The proposed layout fails to demonstrate this.

Given the concern about the safety of the access onto the A47, which has a poor alignment, is heavily trafficked and is relatively fast I consider that the proposal is unacceptable, due to unsatisfactory access in terms of highway safety.

Protected Species

Concerns have been raised that bats are roosting within the area and may be adversely affected by the development. Bats are a protected species and where concerns are raised of their presence, a Bat Survey is required. I have requested this from the applicant however none has been forthcoming. Insufficient information has therefore been provided to show that the proposal will not have an adverse impact on protected species.

Impact on Protected Trees

There are four trees protected by a Tree Preservation Order on site: two at the front and two at the rear. These are considered to be of significant amenity value and wildlife importance to the surrounding area.

The front wall of the proposed house would be 12.46m from the trunk of the nearest tree (the porch is shown approximately 10m from the trunk). The 'rule of thumb' in the British Standard for trees and construction is that a root protection area should be provided to a distance no less than 12 times the trunk diameter, which in this case equates to 9.4m. The separation between the proposed house and the tree is therefore compatible with that requirement.

The applicant needed to show that all the practical requirements of the construction process could be provided without damaging the protected trees. This would involve providing all the information referred to in the SPG Tree Protection for developers (showing any level changes, all underground services, storage areas, site facilities etc). It would also need to show that construction traffic could access the site from the area at the side of the protected trees without causing damage to their roots or branches (including providing for ground protection over which vehicles can drive), and also that access and visibility requirements would not compromise the trees close to Uppingham Road. This information has not been provided and I am

therefore unable to accurately assess the impact of the proposal on the protected trees and these details cannot be adequately conditioned.

The front wall of the house is approximately 6 metres from the edge of the canopy of the nearest tree. The trees lie to the south of the proposal. A number of principal room windows are located on the front elevation such as the living room and bedrooms. Due to their size and siting, the trees would result in the front elevation of the house being cast in shadow for much of the day as well as having an overbearing visual impact on future occupiers. This would result in the creation of an undesirable living situation and would in turn lead to pressure for significant reduction or complete removal of at least one of the trees. The proposal is therefore contrary to policies PS10 and UD01 of the Local Plan and the SPG Tree Protection.

Other Considerations

A number of secondary windows have been proposed in the eastern elevation (the side closes to 500 Uppingham Road) of the property that would serve principal rooms. These would have the potential to result in a loss of privacy for occupiers of the neighbouring property by reason of overlooking. However, I am satisfied that this could be overcome by attaching a condition requiring them to be obscure glazed and sealed units.

The house will be located approximately 80 metres from the edge of the highway and will therefore not be readily visible from the street scene. The closest property is 496A Uppingham Road which is a bungalow. The side elevation of the proposed house would be less than 15 metres from the front of the bungalow. The adopted SPD Residential Amenity states that where a wall with no window faces a wall with windows to a principal room on an adjacent property, the minimum separation distance must not be less than 15 metres. I consider that the bulk of the proposed house with a gable wall 13 metres from the front of the bungalow would have an overbearing visual impact on the occupiers of 496A Uppingham Road and also lead to a loss of outlook.

The application site is approximately 40 metres from the rear of the host property 498 Uppingham Road. The properties closest to the application site aside from the host are bungalows on Brent Knowle Gardens. The proposed house would be viewed from Brent Knowle Gardens as part of this streetscape and I am concerned that its height and design would not be in keeping with this immediate area.

Sufficient amenity space has been provided in line with the SPD Residential Amenity (Appendix G).

Conclusion

The proposal raises a number of concerns relating to the adverse impact on the future development capability of adjoining land, highway safety, impact on protected species and protected trees. And the amenities of the future occupiers of the dwelling contrary to PPS3: Housing, policies contained in the Local Plan and the SPGs.

I therefore recommend REFUSAL for the following reasons:

REASONS FOR REFUSAL

1. The proposed driveway, by reason of not being to adoptable standards is not capable of significant extension to serve the possible future development of

adjoining areas of backland. As such the proposal is likely to result in an inefficient use of land, may compromise possible comprehensive backland development and is likely to set a precedent for future inefficient developments of this type in the area. Were the driveway to be extended to serve more dwellings it would adversely impact highway safety. The development is therefore contrary to policies AM01 and H14 of the City of Leicester Local Plan.

2. The proposed access by reason of its siting is likely to intensify the use of it to the detriment of highway safety by reason of insufficient sightlines. It is therefore contrary to policy AM01 of the City of Leicester Local Plan and guidance in the Department of Transport `Design Manual for Roads and Bridges`.
3. Insufficient information has been provided for the City Council as Local Planning Authority to assess the impact of the proposal on protected species (bats) in the area. The proposal is therefore contrary to advice contained in PPS 9 Biodiversity and Geological Conservation.
4. The proposed development would be likely to lead to root damage to trees protected by a Tree Preservation Order (481), which would reduce their vigour, harm their health and possibly compromise their stability. The proximity of the trees to the proposed dwelling would be detrimental to the residential amenities of future occupiers by blocking light, dominating the proposed front garden due to restricted depth, and leading to concerns about the safety of the trees. This would lead to pressure for the removal or severe reduction of the trees that would be difficult to resist. The proposal is therefore contrary to policy UD06 of the City of Leicester Local Plan and the guidance contained within the adopted Supplementary Planning Guidance `Tree Protection`.
5. The proposal due to its siting, height and design is likely to have an overbearing impact on occupiers of 496A Uppingham Road and would be out of keeping with the character of the area when viewed from Brent Knowle Gardens to the detriment of residential amenity, contrary to policy PS10 of the City of Leicester Local Plan and guidance in the adopted supplementary planning guidance `Residential Amenity` (Appendix G).

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_AM12	Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01.
2006_H03	Provides guidance on minimum net densities to be sought for residential development sites according to location.
2006_H14	Criteria for backland development.
2006_PS10	Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.

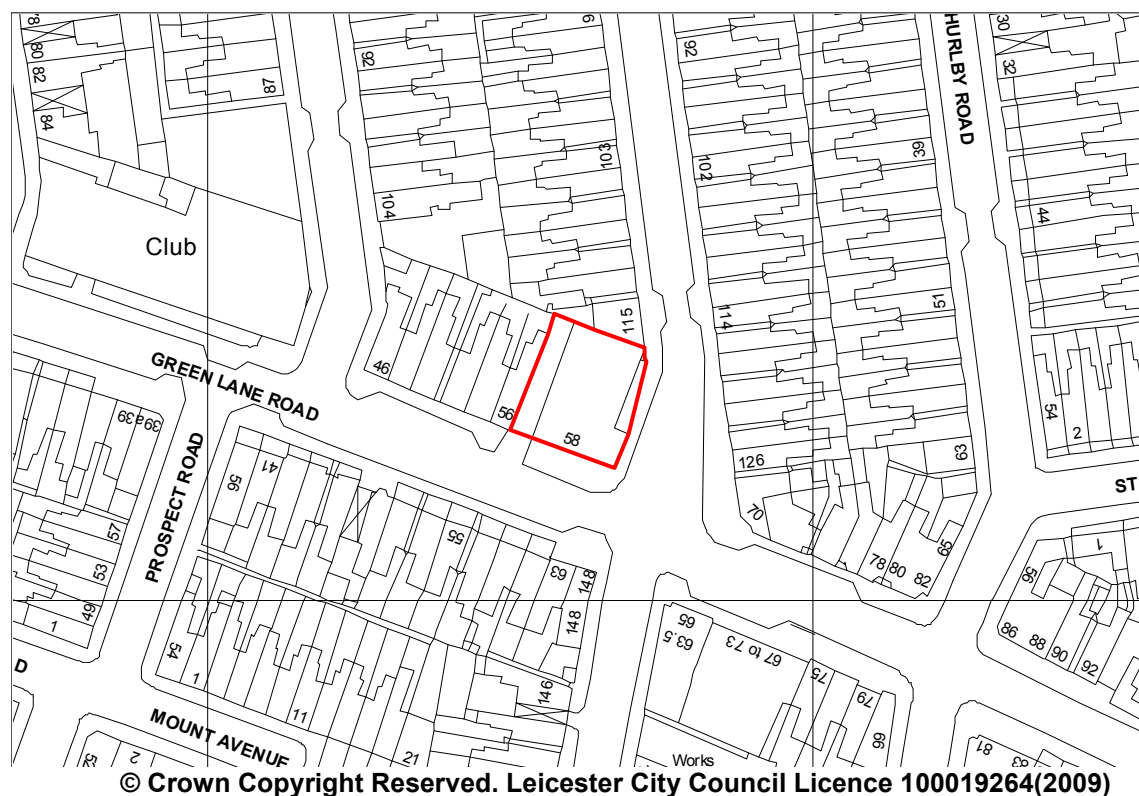
2006_UD01

Planning permission granted for sustainable high quality building designs providing proposals take into consideration criteria.

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.

Recommendation: Refusal	
20090544	58 GREEN LANE ROAD
Proposal:	CHANGE OF USE OF FIRST FLOOR FROM RETAIL (CLASS A1) TO SIX FLATS (6 X 1 BED); TWO STOREY SIDE EXTENSION; SHOPFRONT; ROLLER SECURITY SHUTTERS; ALTERATIONS TO ROOF; PITCHED ROOF TO SINGLE STOREY ELEMENT AT SIDE; RAMP; ALTERATIONS
Applicant:	MR BASIR MULLA
App type:	Change of use
Status:	Change of use
Expiry Date:	23 July 2009
WJJ	WARD: Charnwood



- The main issues under consideration are parking, servicing arrangements for the retail unit, residential amenity of the new flats and appearance.
- The loss of the existing parking/servicing area and the intensification of use on the site will result in an increase in on-street car parking in the area and inadequate servicing of the shops by vehicles parked on the highway to the detriment of highway safety. The failure to secure contributions to Youth/Adult Outdoor Play Space will result in existing facilities being overused to the detriment of amenity.
- Therefore the recommendation is for refusal.

Introduction

The building has two storeys and a parking and servicing area down one side. It sits on the corner of Green Lane Road and Harewood Street. The site has a retail use and is located within the Green Lane Road Local Centre. To the rear is a Primarily Residential Area characterised by terraced housing.

Background

The building was originally a cinema but was converted to retail in the early 1980's. It has had various minor alterations over the years.

The Proposal

The proposal is to change the use of the first floor from retail to six one-bedroom flats. The ground floor will remain in retail use. Various alterations are proposed. They include raising the height of the eaves and inserting half dormers, a two storey side extension that will house a stairwell and one of the living rooms for the flats, a new shopfront facing Harewood Street, roller shutters for the shopfronts, a ramp to the side, a pitched roof for an existing part of the building with a flat roof and rooflights in the new roof.

Policy Considerations

City of Leicester Local Plan policies relevant to this application are listed at the end of this report.

Supplementary Planning Guidance (SPG) – Vehicle Parking Standards
Supplementary Planning Document (SPD) – Residential Amenity Guide

Consultations

Private Sector Housing – No objection

Highway Authority – Object. Grounds: loss of yard would lead to on-street servicing to the detriment of highway safety; there is a significant problem with on-street car parking in the area – an intensification of use is likely to exacerbate it.

Pollution (Noise) – No objection

Parks – A contribution is required: Youth/Adult Outdoor Play Space - £1212

Representations

Councillor Suleman has called the application to committee should the recommendation be for refusal as he wishes the committee to consider whether a parking and servicing area is necessary. No objections have been received.

Consideration

Amenity for occupants

The Residential Amenity Guide SPD states that one-bedroomed flats should have a garden or balcony of 1.5sqm per flat. No garden or balconies are provided for this scheme. However given the constrained nature of the site it would be difficult to provide them. The site is close to parks such as Spinney Hill Park and Uppingham Road Garden. As such I think the lack of balconies and garden is, in this case, acceptable subject to a contribution to improve existing youth/adult outdoor play space. I am presently liaising with the applicant in this respect and will update the committee on this matter.

There is space for bins and cycles in the rear yard.

All of the windows to the living rooms in the flats look out over Green Lane Road and Harewood Street. I believe this provides the flats with sufficient outlook for residents.

Amenity for neighbours

Some of the windows for the proposed flats look towards properties at the rear of the site. However these properties are already overlooked and the new windows will overlook them at an oblique angle and do not service principal rooms. As such I am satisfied the privacy of neighbouring properties will be maintained.

The eaves of the roof are being raised by 2m. Given the height of the roof ridge (which will be unchanged) and the position of the ridge to the south of neighbouring properties I do not believe the changes will have a significant impact on the amount of light the existing dwellings enjoy compared with the current situation.

Highway and parking matters

The area is presently characterised by an extremely high level of on-street car parking. The site is located in Parking Zone 4. The existing retail use is slightly over 500sqm in floor area. The Vehicle Parking Standards states that retail uses between 200sqm and 300sqm should have four car parking spaces. Retail up to 1000sqm should have one space per 20sqm. The Vehicle Parking Standards is trying to cater for the difference between small shops in local centres and large out of town retail units but the line between the two is not precise. Although reasonably large this unit is located within a local centre in a densely populated part of the city. As such I believe it falls into the former and not latter category. Four spaces for 300sqm translates to one space per 75sqm. At one space per 75sqm this translates to seven spaces.

The Vehicle Parking Standards states that six one bed flats should have six spaces. A retail floorspace of about 250sqm should have four spaces. According to the Vehicular Parking Standards SPG the proposed development should have ten spaces. This is an intensification of use compared to the existing situation and demand for car parking may therefore increase. As part of the development the existing vehicular access/service area/parking area that can accommodate two cars will be lost. As such the development is likely to result in an increase in on street car parking to the detriment of highway safety.

The loss of the vehicular access/service area/parking area is likely to result in the servicing of the shop from vehicles parked on the highway. Given that the site is close to a busy junction this is likely to be detrimental to highway safety.

Other matters

I consider the proposals will maintain the visual character and appearance of the area.

The design of the roller shutters is not detailed. If the application were approved then I believe they could be covered by condition to ensure a suitable design were chosen.

New flats here are likely to result in an increase in the use of youth/adult outdoor play space. A contribution towards the improvement of existing youth/adult outdoor play space is therefore required. No unilateral undertaking has been submitted by the applicant to secure this however I am liaising with the applicant in this respect and will update the committee on this matter.

I therefore recommend REFUSAL for the following reasons.

REASONS FOR REFUSAL

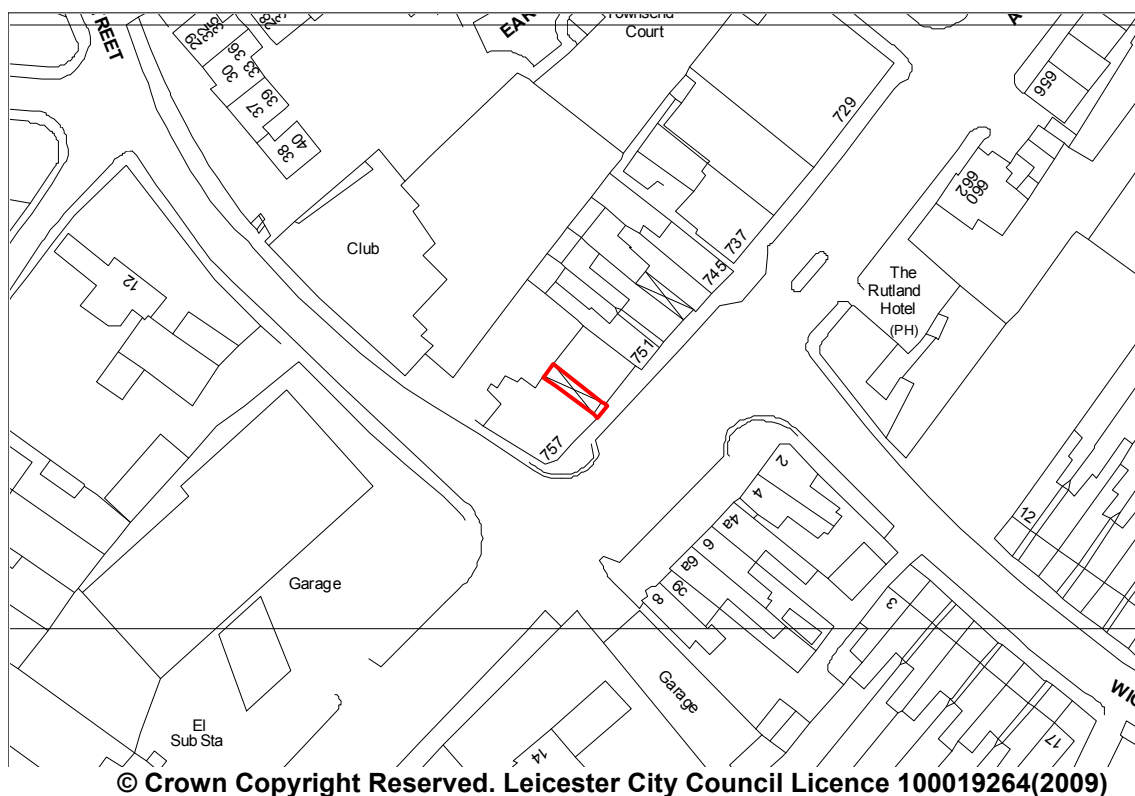
1. The proposed scheme will result in the loss of the existing service yard on the western side of the property. This is likely to result in an increase in the servicing of the retail unit from vehicles parked on the public highway, to the detriment of highway safety.
2. The proposal results in the loss of on-site parking in an area that suffers with high levels of on-street parking demand. The intensification of the use of the site with inadequate parking provision is likely to exacerbate the existing situation resulting in congestion and an increase in demand for on-street car parking to the detriment of highway safety, contrary to policies AM11, AM12 and PS10 of the City of Leicester Local Plan.
3. The development is likely to result in an increase in the use of public Youth/Adult Outdoor Play Space. No legal agreement has been signed to secure a contribution to this. As such the development is likely to result in the overuse of existing public Youth/Adult Outdoor Play Space to the detriment of the amenity of the occupants of the scheme and people living in the area, contrary to policy GE13 of the City of Leicester Local Plan.

Policies relating to this recommendation

2006_PS10	Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
2006_UD01	Planning permission granted for sustainable high quality building designs providing proposals take into consideration criteria.
2006_H07	Criteria for the development of new flats and the conversion of existing buildings to self-contained flats.
2006_AM11	Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.
2006_AM12	Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01.
2006_GE13	Residential development must make provision for youth and adult play.

- 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_BE11 Planning permission for the fitting of external security measures including roller shutters and grilles will only be approved where a special need for external security exists.
- 2006_R03 Retail development outside the Central Shopping Core will be confined to the existing and proposed shopping centres.

Recommendation: Conditional approval	
20090548	753A AYLESTONE ROAD
Proposal:	CHANGE OF USE FROM RETAIL (CLASS A1) TO TAXI BOOKING OFFICE (NO USE CLASS)
Applicant:	MR DALE WESSON
App type:	Operational development - full application
Status:	Householder development
Expiry Date:	4 September 2009
WJJ	WARD: Aylestone



Summary

- The property is located within the Aylestone Local Centre close to the junction of Aylestone Road and Braunstone Lane East.
- Thirteen objections have been received on the grounds that there are too many taxi firms in the area and the use of the Aylestone Social Club car park by taxis would disturb neighbouring residents and litter may be dropped.

- The main issues are the acceptability of a taxi booking office within a local centre, whether the use is likely to result in noise disturbance for local residents, and the impact on parking and highway safety.
- A taxi booking office within a local centre is acceptable. A taxi booking office is unlikely to result in a significant level of noise above what would normally be expected in a local centre. The level of on-street parking in the area will not significantly alter the parking situation nor impact highway safety.
- The recommendation is therefore for conditional approval.

Introduction

The site is a very narrow retail unit located within a shopping parade that is designated a Local Centre. To the rear is a Primarily Residential Area. There are parking bays on both sides of the Aylestone Road outside the property.

Background

Various minor alterations have taken place over the years.

The Proposal

The proposal is to change the use of the premises from retail to a taxi booking office. The applicant has stated that parking for taxis could be provided in the car park of Aylestone Social Club nearby. I estimate that car park has spaces for about twenty-five cars. The applicant proposes to use the taxi booking office on a twenty-four hour basis.

Policy Considerations

City of Leicester Local Plan policies relevant to this application are listed at the end of this report.

Supplementary Planning Guidance (SPG) – Vehicle Parking Standards

Consultations

Highway Authority – Object unless appropriately sized car park can be provided and secured. Without car parking the use may lead to highway safety problems as taxis pull up outside the unit on the corner of a main road.

Pollution (Noise) – Recommend refusal as there are residential properties above the shops in this local centre. Should permission be granted they request that it be granted on a temporary basis so that the impact can be monitored and that conditions be attached to ensure soundproofing is installed and amplified music is not played.

Representations

Thirteen objections on the grounds that there are too many taxi firms in the area; undermine existing taxi businesses; the use of the Aylestone Social Club car park by taxis would create noise that would be heard by residents nearby at Russell Court; concerns about the possibility of rubbish being thrown into their communal garden.

Consideration

Principle of use

Taxi offices are an appropriate use for local centres as they are similar to a shop (class A1) or an office for professional or financial services (class A2) in that a number of people work at them (deskwork) and members of the public come and go from the site. They are also appropriate as people need to get to and from local centres and taxis provide a means of doing this. I do not believe a taxi booking office is likely to create an unreasonable amount of noise. If noise is created in and around the taxi booking office then it is more desirable to have it in a local centre than in other more sensitive locations such as residential areas.

I note the comments made by Pollution and I agree that conditions to secure soundproofing and prohibiting amplified music are reasonable to protect the amenities of neighbouring properties. As a taxi booking office is an acceptable use for a local centre I do not believe permission should be granted on a temporary basis.

Highways and parking issues

The applicant indicates that Aylestone Social Club will allow taxis to park in the Social Club car park. A letter from the Social Club has been provided as evidence. However no legal agreement has been provided to demonstrate this has definitely been secured.

Other third party issues

Objectors have raised concerns that people using taxis in the Aylestone Social Club car park may be noisy and may drop litter that would go into the gardens at Russell Court. The car park presently operates as a car park for the social club. Were the car park to be used as a 'taxi rank' or 'taxi station' then a change of use could be said to have taken place and hence control could be exercised through the planning system. However it would be difficult to demonstrate that a couple of taxis parking there at any one time constitutes a change of use and hence control could not be exercised over this situation.

An objector has raised concerns that another taxi booking office would undermine existing taxi businesses. I do not believe that the restriction of competition between businesses is within the remit of this application.

I therefore recommend APPROVAL subject to conditions.

CONDITIONS

1. START WITHIN THREE YEARS
2. The use shall not commence until noise insulation measures have been implemented in accordance with plans submitted to and agreed in writing by the local planning authority. (To protect the amenities of neighbouring dwellings in accordance with policy PS10 of the City of Leicester Local Plan.)
3. There shall be no live or amplified music or voice played which would be detrimental to the amenities of occupiers of nearby properties. (In the interests of the amenities of nearby occupiers and in accordance with policy PS10 of the City of Leicester Local Plan.)

4. This consent shall relate solely to the submitted plans received by the City Council as local planning authority on the 29th May 2009 unless otherwise agreed in writing with the City Council as local planning authority. (For the avoidance of doubt.)

NOTES FOR APPLICANT

1. **REASON FOR APPROVAL.** In the view of the City Council, the proposal complies with the relevant criteria in the City of Leicester Local Plan policies listed in this decision, Supplementary Planning Guidance (SPG) - Vehicle Parking Standards and there are no material considerations which outweigh these policies.

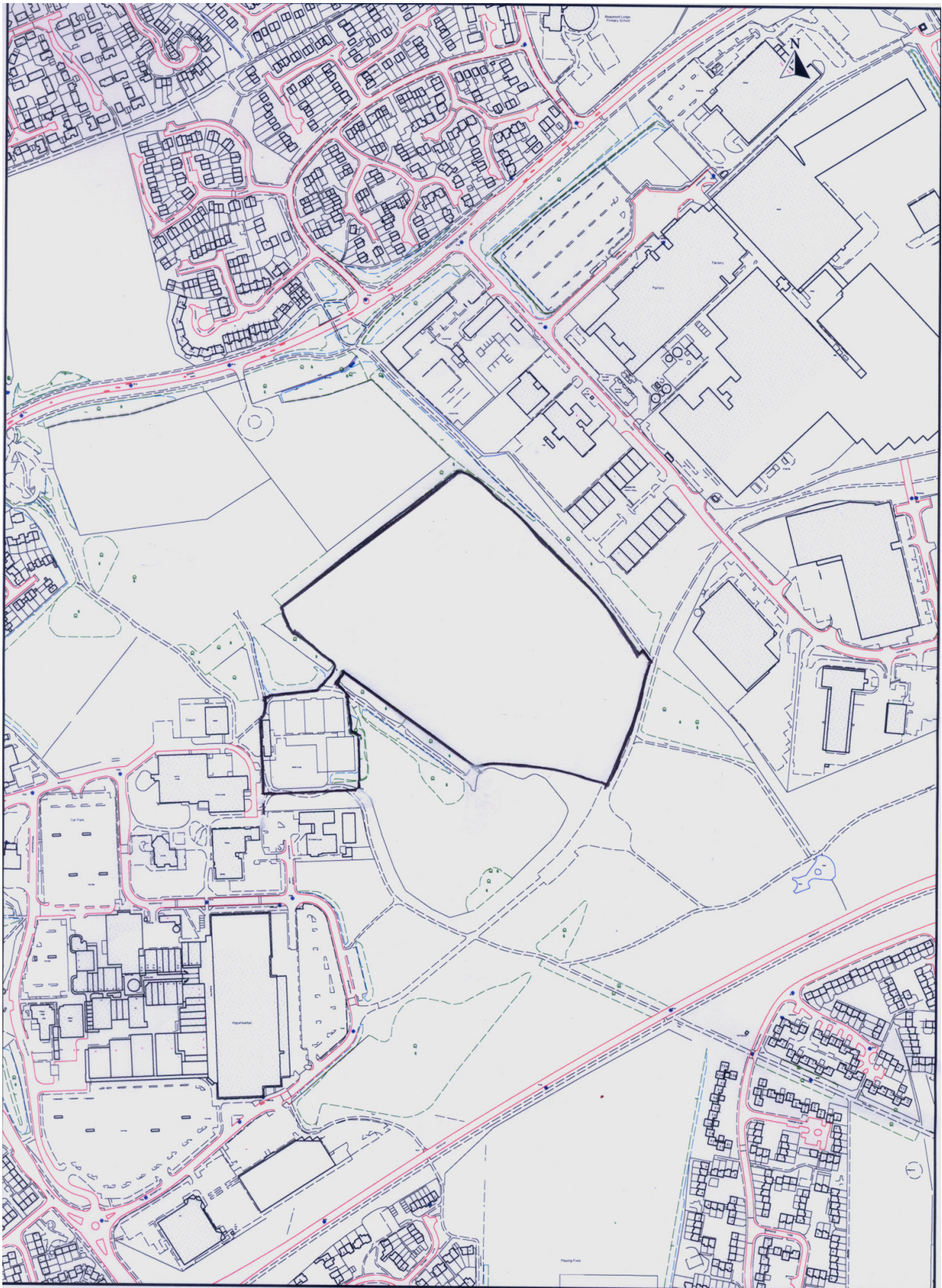
Policies relating to this recommendation

- 2006_PS10 Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
- 2006_AM12 Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01.

Recommendation: Conditional approval	
20090571	BEAUMONT PARK, BENNION ROAD
Proposal:	SPORTS COMPLEX COMPRISING SPEEDWAY TRACK WITH TWO-STOREY PAVILION BUILDING; 12 X 5-A-SIDE FOOTBALL PITCHES WITH SINGLE-STOREY FACILITY BUILDING; CYCLE TRACK; BMX TRACK; LIGHTING; ASSOCIATED PARKING (CLASS D2) (AMENDED PLANS)
Applicant:	BEAUMONT SPORTS COMPLEX LTD
App type:	Operational development - full application
Status:	Small-scale Major Development
Expiry Date:	7 August 2009
SB1	WARD: Beaumont Leys

Summary

- The site is part of Beaumont Park, and this part is currently little used. The perimeter is formed by a thick belt of trees on three sides.
- The application is for a 320m speedway track and pavilion; 250m cycle track; BMX track; and 12 five-a-side football pitches and pavilion. There would also be a habitat creation zone in the southern corner
- 104 letters of support and a petition of support with 562 signatures have been received. Nine letters of objection have been received. The majority of those in support do not live in the Beaumont Leys area



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- Speedway race meetings would take place from March to October on Saturday evenings starting at 1915 and finishing at 2200. When the speedway track is in operation all other facilities would be closed
- The cycle track and BMX track would be managed by the British Cycling federation. Both would be available during the day. The BMX track would be free to use at all times when there is no speedway meeting. The exact number of events at the cycle track depends on demand but it is expected that it will be in use on 2 evenings per week
- The Five a side football pitches would be managed by a private operator in the same way as other centres in the city for example at Crown Hills School
- The facilities in the speedway pavilion and the football building would be available during the day
- The main issues are noise and traffic from the speedway on race nights, and security
- The applicant has proposed noise reducing measures; I am satisfied that there is little more that can be done in this direction. However, despite the fact that the motorcycles are considerably quieter than those in use 20 years ago, there are potentially significant impacts caused by noise and noise would still in some situations exceed WHO guidelines;
- The amount of parking provided is acceptable. Further information is awaited on traffic flows but I do not anticipate that there would be any insurmountable problems;
- Overall I consider that the facility would benefit the local community, in providing a range of facilities and training opportunities not currently available and also the city as a whole. The recommendation is approval subject to the receipt of further satisfactory information where requested.

Introduction

The application site lies within Beaumont Park and is 7.8ha in area. The main part of the site is allocated as Green Space in the City of Leicester Local Plan, and a smaller part is allocated for community and leisure use. The main site is surrounded by trees to three sides, with an area of higher ground on the south-east side

To the north-west are the pitches of Beaumont Town football club; to the north-east, a public track and wooded area and beyond this the industrial and warehouse properties of Leycroft Road; to the south east and south west is Beaumont Park, and also to the south west is an existing formal sports area and single storey pavilion.

The Leicester Leys Leisure Centre and The Beaumont Shopping centre lie further away to the south west

Background

Beaumont Park was laid out in the 1980s. Since then various works have been carried out such as the creation of the current BMX track to the south-east, and a multi-use games area.

The Proposal

The proposal would comprise 4 main elements: 320m speedway track and pavilion; 250m cycle track; BMX track; and 12 five-a-side football pitches and pavilion. There would also be a habitat creation zone in the southern corner.

The project aims:

- To provide a community sports and education hub within Beaumont Park which will encourage the use of the park by local residents and city wide;
- To add to the sport and activity choice for local residents and city wide
- To provide opportunities for a wide range of user groups such as the general public, national athletes, schools and youth groups, FA chartered football clubs, club members, casual cyclists, voluntary groups, further education use and disabled users.

In detail:

Speedway

This would host motorcycle racing as part of the Premier Speedway League, and would comprise a 320m speedway track surfaced with loose laid shale and a stand for 1,500 spectators. There would be 35-40 meetings a year, on a Saturday from March to October, with possible additional meetings on bank holidays.

The programme for race nights would be that at 1915 up to 14 motorcycles would warm up in the designated pit area. The warm up would last for approximately 15 minutes, after which the race meeting would start. Warm-up and races would not take place together. Each heat involves four motorcycles with each heat lasting for approximately one minute. Race meetings are expected to be concluded at 2200.

The track would be surrounded by a bund 1.6m high, which would provide both accommodation for spectators and protection against noise transmission. On top of the bund would be acoustic fencing of 2.4m height (revised plans).

The pit area would be roofed except entrance to pit area. The enclosure itself would have acoustic walls and then the acoustic barrier would be put around the whole site. There would therefore be two levels of noise defence from the pits.

The stand would accommodate on the ground floor ticket and admin offices, announcing/PA area, changing facilities, toilets, food outlets, merchandise shop, and community study centre. The first floor would provide sports bar/café and community function/seminar/entertainment room and corporate boxes. The regional HQ for British Cycling would relocate to this building from its present HQ in Loughborough and would have a small office on the ground floor. The pavilion would be open daily and the facilities would be available to the public when the track is closed

Five a side

This facility would be managed on the same basis as other goals centres in the city for example at Crown Hills School. It would be open from 10am to 10pm Monday to Friday, to 2pm on Saturdays and to 6pm on Sundays. It is anticipated that the busiest period would be in the evenings.

here would be a single storey facility building comprising offices, changing rooms and a café/bar and two meeting rooms.

Cycle track

This facility would be a 250m closed cycle circuit with 5 tracks and would be managed by the British Cycling Federation. It would be surrounded by a 1.6m embankment to provide a camber and for spectators. The hours of use would be 10am to 10pm Monday to Friday, to 2pm on Saturdays and to 10pm on Sundays.

The hours of use would depend on demand but it is anticipated that there would be two evening events a week (not Saturdays) and training during the day. A cycling development plan would be produced.

BMX track

Would also be managed by the British Cycling Federation. It would be free to use and would be open at all times except on Saturdays when a speedway meeting is taking place.

Materials

Both the speedway stand and the football facility building would be metal and render clad and part of the football building would be of clay blocks. Both buildings would have curved aluminium roofs. The fins for the pavilion building would be metal-clad and the fin walls and the drum of the football facility building clad in render.

Car park and access

The car park would be located in the area currently accommodating sports pitches and a single storey pavilion. The pavilion, which currently houses a crèche as well as being used for changing, would be demolished. There would be parking for 236 vehicles including vans and mini buses, 15 disabled parking bays, two ambulances, 15 motorcycles and 27 cycles. There would also be a taxi drop-off area and 18 separate parking spaces next to the speedway track for competitors' vehicles.

Vehicle access to the car park would be via the service road leading from Beaumont Way, which in turn leads to Bennion Road. There would be a second controlled access on the south side of the site, which would be used by competitors and officials, and would also be used by emergency vehicles. The car park would have a barrier and would be closed at night to vehicles.

Access from the car park to the main site would be via an existing footpath and bridge, which crosses a small culvert. The bridge would be widened to 2.5m.

Landscape/Ecology

Most of the trees around the site would be retained, except that a small number of trees may need to be removed to allow access during construction. It is intended that any vegetation lost during construction would be replaced.

A small ecology area comprising a series of ponds would be developed in the south of the site. The banks to be formed around the speedway track would be soft landscaped. A swale, which is a shallow drainage ditch planted with appropriate species, would run across the site.

Lighting

The site would be lit with highway type low-spillage lighting. Whether the lighting would be left on all night has not yet been decided and is subject to police advice and will form part of the security document which the Leicestershire constabulary recommends as a condition.

Generally

There would be approximately 17 full-time equivalent staff, and the facilities would be fully staffed during the day.

The site itself would not be fenced off. The existing trees would continue to form the site boundary, and the existing informal accesses – for example from the track on the north-east side – would continue to be used. The site itself would be open at all times. It is the applicant's hope that the facilities would be made use of by the local community – for example, by schools, and local groups, and for job training, and it is intended to offer free access to some of the events for certain groups.

The buildings adhere to Sport England guidelines regarding the level of provision for example number of changing facilities.

The other sports facilities would not be in use at the same time as the speedway circuit

Security would be provided by CCTV.

The following documents have been supplied with the application:

Design and Access Statement, Energy Statement, Flood risk Assessment, Noise Assessment, Addendum to Noise Assessment, Transport Assessment, Framework Travel Plan, Lighting Report and floodlighting details, Badger Survey, Habitat Creation Report, Phase 1 Habitat Survey and Protected Species Report, Bat and Bird Building Assessment, Great Crested Newt Survey; Statement of Community Involvement, and petition in support of the proposal.

Publicity

The applicant carried out extensive pre-application publicity in the local area and citywide. It included two exhibitions at the Beaumont Leys shopping centre, a public meeting in the area chaired by Patricia Hewitt MP, attendance AT LOCAL WARD MEETINGS, a letter drop consultation, further exhibitions, and publicity on radio Leicester. A full statement of pre- application publicity is contained in the design and access statement.

The application itself was advertised by 42 site notices put up in the around the site, at the Beaumont Leys centre, outside schools, shops and Castle Hill park, and in nearby housing areas.

Policy Considerations

City of Leicester Local Plan policies relevant to this application are listed at the end of this report.

PPG17 Planning for open space sport and recreation

PPG24 Planning and Noise esp. section 22
WHO guidelines for community noise 1999
Design Manual for Roads and Bridges vol 11
PPS9 habitat creation biodiversity

Consultations

Environment Agency –No objection subject to conditions

Sport England – no objection as the proposal meets exception criterion E2 of Planning Policy Guidance Note 17, as the development is ancillary to the playing field. Sport England welcomes the new clubhouse but suggests that the number of changing rooms for the five a side pitches should be increased.

Severn Trent Water - no objection subject to condition.

Leicestershire constabulary – has concerns about security as detailed below and requires amendments

Local highway authority – has concerns about certain aspects as detailed below, but no objections subject to conditions.

Highway Agency - no response to date

County Council Highways - no response to date

Anstey Parish Council - no response to date

The Director of Sports Services is fully supportive of the scheme and is working closely with the Consortium. He considers that it would bring much needed community, employment and health opportunities to the area.

Representations

Nine letters of objection have been received and 104 letters in support of the application. In addition a petition in support of the application with 562 signatures was submitted with the application.

All of the letters of objection are, to judge from their contents, from residents in the Beaumont Leys/ Anstey Heights area, although not all give an address.

Of the 104 letters of support, 14 do not give an address, one is from the Beaumont Leys area, 4 are from the wider LE4 postal area, which includes Birstall and Anstey, and 2 are from outside the county. The remainder are from the rest of the city and county.

167 of the 562 signatories to the petition (30%) are from the Beaumont Leys/ Mowacre/ Stocking Farm area. The petition supports the proposals because of the facilities it would offer to residents of Beaumont Leys and Leicestershire. One of the letters of support is from the Secretary of the Leicester Speedway Supporters Club. One representation seeks clarification on various issues but does not express a view.

The reasons for support are as follows:

- The facilities would benefit residents of Beaumont Leys;
- The facilities would give local youngsters something to do;
- Beaumont Park is underused and attracts undesirable elements;
- The city has lost a lot of sporting facilities recently such as Granby Halls, St Margarets Baths and the Velodrome; this would reverse the trend;

- Would give the city something to be proud of and put Leicester back on the sporting map;
- Could link with London Olympics in 2012;
- Kings Lynn speedway is used for educational purposes, Scunthorpe speedway for children with challenging behaviour, proposal could do likewise;
- It is supported by local councillors, local M P, and the majority of residents;
- It would provide jobs and boost the local economy;
- Speedway recently returned to Birmingham successfully;
- Speedway is a family activity which appeals to all ages;
- Would reduce need to travel to other events further afield;
- The site is well located on the outskirts of the city and with good motorway connections;
- Concerns about noise would prove unfounded;
- Would reduce misuse of motorbikes in the area;

The reasons for objection are as follows:

- Increase in traffic; already a lot due to shopping centre and industrial estate
- Noise from speedway races, spectators, and traffic attending the events;
- Increased danger to children from increased traffic
- The location is inappropriate as it is close to a family area
- Already a problem with off road motorbikes and quad bikes in the areas, the development would encourage even more;
- Residential streets may be used for parking;
- The existing trees and shrubs on the boundary would have to be cut down;
- New BMX track may not be free to use;
- Badger setts may be destroyed;
- Those in support do not live in the area;
- Not enough police to deal with disturbances;
- Fall in property values (not a material planning consideration);
- Lack of public consultation;
- Not enough cycle spaces
- No proposals for security and community safety;

Two letters of objection have been received from the NSPCC, whose regional headquarters are at Gilmour Close near the site. One of these is from the resident caretaker. The NSPCC is concerned that the extra traffic, noise, lighting, possible unauthorised parking and other aspects of the proposal would disturb the running of the premises. However the applicant has agreed to carry out extra planting on the NSPCC's boundary (outside the site) and it is understood that the objector is satisfied providing this planting is carried out.

Consideration

Principle of proposed use

Policy GE09 'Green Space' of the CLLP states that planning permission will not be granted for any development which would endanger or encroach upon Green Space unless nature conservation and landscape value is protected, the development would not create an area of public open space deficiency, and in addition to this it would

service or improve the character of open space uses on the land and the green and open character of the area.

There are several factors which lead me to conclude that this development would be an appropriate use within the terms of policy GE09:

- The site is not located in an area of open space deficiency and the development would not create such a deficiency;
- While Beaumont Park is reasonably well equipped – for example it has an existing BMX track and ball courts – the park and facilities are currently under-used. The reason seems to be the perception that the park is unsafe. By increasing use and surveillance of the park, this development would help to bring an underused public park back into use;
- The type of uses proposed are leisure based, and the new facilities such as BMX track and ball courts would be of better quality than the existing facilities;
- The proposed Speedway track and cycle track would provide important sub regional attractions of a type not currently available in the city;
- The existing vegetation would be retained and a nature area provided, thus protecting the ecological value of the site, which as it is former playing fields and is kept closely mown, has little ecological value apart from the surrounding trees and hedges. This is dealt with in more detail in the section on landscape and ecology below;
- Existing routes through the site would be safeguarded and new safe routes provided. Surveillance of other parts of the park would be improved, and the park would still be useable to its existing users
- Sport England has no objection.

In principle therefore I consider that the use complies with policy GE09 and is acceptable in principle.

Design and appearance

The design of the football facility building and the speedway pavilion is contemporary in style and I consider that it is in keeping with its surroundings. The height of the speedway pavilion would be slightly less than the height of the surrounding trees and therefore it would not be obtrusive from outside the site.

In terms of layout, this aims to minimise noise transmission by having the noisiest activities furthest away from residential properties. There is limited space between some of the facilities such as the speedway track and the cycle track, and between the rear of the stand and the Five-a-side pitches. A greater circulation area would be desirable. However the size of the site cannot be increased without removing some of the boundary trees, and the only other option would be to reduce in size or remove one of the facilities, neither of which would be desirable. I therefore consider that the layout is acceptable in design terms.

Traffic and parking

The site is located within Zone 4 of the Parking Standard Zones. In regard to sports stadia, Appendix 1 of the local plan suggests that the maximum standards in PPG13, which apply to stadia of at least 1500 seats, should be used and these require 1 space per 15 seats and enough coach/bus parking to satisfy the highway requirements for the local authority. This would mean that for the Speedway

Stadium 100 car parking spaces should be provided. The 236 parking spaces proposed are in excess of this but are comparable to the 266 car parking spaces provided at the Perry Barr Speedway Stadium in Birmingham.

For the new football facility a maximum of 1 space would be required per 22 sq m. As this and the other facilities would be closed when the Stadium is open, I consider that the parking provision is adequate for all facilities

In addition to these spaces, customers could also use the car park at the Beaumont Leys centre which is for general public use and not for solely for customers of the shopping or leisure centres. Figures in the Transport Assessment show that at the times when the speedway stadium would be in use, these car parks are very little used

Cycle parking provision, coach parking, disabled parking provision and the taxi drop off area are all acceptable. Cycle movements to the cycle parking should be via the pedestrian / cycle bridge near the car park to separate cycle movements from the traffic at the deliveries/disabled access.

In response to concerns about the location of the disabled parking provision, the site layout has been amended and I consider that the location of the disabled bays is now acceptable.

The layout of the disabled and service area has been amended and the highway authority is now satisfied that there is sufficient turning space for both. Also a passing point has been added to ease the passage of Emergency Vehicles.

The Highway Authority requires within the Travel Plan a car parking management system that would control the staff parking to ensure that the disabled parking bays and the competitors parking near the Stadium are not mis-used.

A separate Events Travel Plan would be required for the Stadium use to deal with main events.

The LHA are concerned that the speedway meetings, and the Five-a-side football pitches (as, unlike the speedway, travel to the latter is likely to occur at peak times), may cause a detrimental impact to the surrounding transport network in terms of capacity and congestion and considers that the assessment in the Transport Assessment is not adequate. Further information has been requested and will be reported to your committee.

A separate Events Travel Plan will be required for the Stadium use to deal with the regular one off events.

Residential amenity – Noise

Policy PS10 'Residential Amenity and New Development' requires the amenity of local residents to be protected from any unreasonable impact of new development. While the motorcycles used for Speedway are considerably quieter than those in use 20 years ago, there are potentially significant impacts caused by noise and fumes, as with any motor sport. The speedway track would be located at the end of the park nearest to the employment area which would limit its impact. However this is an important issue for local residents, and the impact is considered in detail below

There are residential properties on two sides of the north and south, but they are some distance away. The nearest residential properties are to the north, where the nearest house would be on Patterson Close on the other side of Bennion Road, and this would be 350m from nearest part of the track. The next nearest houses, on Pinewood Close, would be 480m from the nearest part of the track. To the east is an industrial area, itself a source of noise, with activities that are operating up to 24 hours a day; and to the west are the leisure and shopping centres.

A Noise Assessment was submitted as part of the application. The Noise Assessment deals with all likely sources of noise from the development, including traffic, construction and the PA system. Within the facility the chief noise generator would be the speedway. As the other facilities would be closed while the speedway is in operation, the Noise Assessment focuses on the speedway meetings.

The Noise Assessment states that noise levels associated with speedway racing are comparable with the noise generated by industrial processes and therefore the development has been assessed in line with BS4142 'Method for rating of industrial noise affecting mixed residential and industrial areas'. The basic procedure is to consider the level and type of noise against the existing background noise at different sensitive locations. Construction noise impacts were also considered.

Current background noise levels in the area were assessed, and noise measurements taken at a comparable site, the Perry Barr Speedway Stadium, in Birmingham. Three locations for monitoring were chosen, generally at the closest residential accommodation on the south, west and northern sides to Beaumont Park. Readings were taken at these locations at similar times to when the speedway track would be operating.

The consultants also measured noise levels from the speedway track at Perry Barr in Birmingham, during the warm up in the pits and during the race itself. These readings have been used to assess the likelihood of noise nuisance from the current proposal.

A number of different noise sources were assessed:

1. The Pit Area

During warm up at 7.15, noise levels in this area are likely to be very high, and therefore measures are proposed to reduce the breakout of noise. The Perry Barr stadium uses specifically designed acoustic boarding around the pits to reduce the noise break-out, acoustically treated on the inside to absorb noise. These give a significant reduction from the original noise level. In addition, the entrance/exit point, which is obviously a break in this barrier, is positioned to face away from residential properties. The pits area would be specifically designed to enclose the noise: the pit enclosure itself would have acoustic walls and then an acoustic barrier would be put around the whole site. So in essence there would be two levels of noise defence from the pits.

A condition could be attached to provide specifically designed acoustic boarding around the pit area, and to ensure that the entrance area faces the industrial estate. A further condition could ensure that the boards are maintained so that there is no deterioration to the noise absorption qualities.

2. Racing Noise

An acoustic bund and fence is proposed around the site. As amended this would be 4m high, with the bund 1.6m and the acoustic fence 2.4m high, and an addendum noise assessment has been submitted which takes into account the increased barrier height.

The track would be positioned so that two of the bends are situated towards two of the locations where noise measurements were taken. Using the Birmingham Perry Barr Stadium as an example, typical noise levels at the nearest properties arising from speedway meetings have been predicted. At the time of the survey the proposed barrier would have been only 3m in height. The consultants state that the 3 metre high barrier would help to reduce noise levels at the nearest residential properties, but during the pit warm up and also during racing at least at 2 of the 3 monitoring positions predict that, if weather conditions are unfavourable, occasional noise levels above the World Health Organisation limit for outside bedroom windows at night may be experienced. However it should be borne in mind that meetings would cease by 10pm.

It is very difficult to mitigate the impact of the 'whole' stadium, when the race is in operation. The only practical way is to further enclose the site. This would mean raising the height of the bunding, and making a further assessment as to what further level of reduction this would achieve. As previously stated, an application for a noisy activity such as Speedway is inevitably going to lead to issues relating to the control of noise. Even with the imposition of all the proposed conditions, there may be times when noise is still above recommended WHO guidance levels, depending on wind and weather conditions and other factors. Other than increasing the height of the bund/acoustic fence substantially, which is unlikely to be cost effective, it would be difficult to reduce noise levels much further.

3. Public Address System

Details of the Public Address System have not been included in the application. The P.A. is often the source of noise complaints, and will need to be designed carefully. Generally a greater number of smaller speakers pointed into the crowd/stand is better and leads to less spillage of noise or reflections. If approved, I would recommend a condition requiring details of the Public Address System to be agreed before the speedway comes into use.

4. Traffic Noise

The noise assessment details the predicted increase in trip numbers during a speedway meeting. Due to the relatively small numbers involved, and the busy ring road adjacent to the site (the noise assessment uses the peak traffic figures given in the transport assessment) and also the finishing time of 2200, I do not feel that there will be any unacceptably adverse noise implications from traffic using the site.

5. Lighting

The proposed floodlights detailed produce little spillage and can be very directional, ensuring that the lighting does not cause glare of nuisance light. I consider the lighting proposals will not have any adverse effect on the amenity of nearby users and are acceptable.

6. Construction Noise

This also can be the subject of complaints from residents. The consultant recommends times for the construction to take place. I would recommend a later start of 07.30, with a finishing time of 18.00 Monday to Friday, and hours of 08.00 to 013.00 on Saturday, with no noisy work on Sundays or Bank and Public Holidays. An information note should be attached to the permission asking the applicant to contact the Noise Team to outline the demolition and construction protocol.

Conclusion on Noise

An application for a noisy activity such as Speedway is inevitably going to lead to issues relating the control and limitation of noisy activities. Even with the imposition of the recommended conditions (to which the applicant has agreed), there may be times when noise is still above recommended WHO guidance levels. These guidelines aim to establish a level of noise which will not disrupt sleep. However it is not anticipated that the noise level will consistently exceed guidelines for a particular area; it is very dependant on winds and weather conditions, the level of background noise, and on people's perceptions of the noise – what may be acceptable to one person may be obtrusive to another. It would not be possible, whatever the level of noise, to guarantee that no-one would be disturbed. However I am satisfied that the applicant has taken all reasonable steps to minimise noise disturbances, and that it is unlikely that another suitable site exists where the noise problems would be less. It is question of balancing the need for the facility against the possible nuisance caused.

Nature Conservation/ biodiversity

Policy GE09 highlights the importance of protecting the nature conservation value of green space.

There would be no additional planting within the site itself apart from the grassed slopes of the bunds. Surfaces would be a mixture of the grass and hard surfacing where required. Bearing in mind the relatively limited circulation space, security considerations, and the prominent vegetation surrounding the site, I consider this to be acceptable.

Biodiversity Enhancement

The habitat creation would take the form of a small wetland area within the site which would form a series of ponds and scrapes and this would be a welcome addition to biodiversity at the site. I consider that if approved a condition should be attached to ensure that species and their habitats are not adversely affected by the development,

and should include approval of a detailed design for habitat creation and enhanced nature conservation value of the site.

Bat Survey

A survey of the pavilion to be demolished found no bats to be present and that it was of low value as a bat roost. However, the surrounding trees and hedgerows could provide suitable sites as roosting sites or foraging for feeding. Moreover, mitigation is required against the impacts of lighting and noise to minimise harm or loss of habitat. I consider that if approved an appropriate lighting design should be submitted for approval within 6 months of the development commencing and this should be a condition.

Badger Survey

The badger survey found evidence of 2 main setts and 2 outlier setts within 500 m of the site. There were no setts found within the site itself but there were indications of badger activity. This suggests that the badgers may create a sett within the site prior to the development commencing. I consider that, if approved, a condition should require a further survey to be completed if development does not commence within 12 months of the last survey (November 2008) to determine badger presence and appropriate mitigation procedures.

Further conditions are required to minimise any disturbance to badgers, and a qualified ecologist should be present on site to confirm that no additional sett building has taken place and to ensure that no disturbance takes place.

Great Crested Newt Survey

The great crested newt (GCN) survey was completed during the optimum time period and no GCNs were found at the pond located within 300 m of the proposed development site. In addition, the Phase I habitat assessment found that the terrestrial habitat was of low value for GCNs. These findings are acceptable and no further mitigation is required for this species.

However, if the species is found during the clearance or construction phase of the development, work must stop immediately and a qualified ecologist must attend the site to confirm identification and take appropriate action in accordance with English Nature's mitigation guidelines (2006). It is recommended that there should be a note attached to any planning permission informing the developer of this.

Bird Survey

The bird survey was conducted during the optimum time period and found that the proposed building to be demolished was not suitable for birds to nest or roost. However, the surrounding trees and hedgerows within the development footprint were assessed to be of medium to high value for birds to nest or roost. Such wild birds are protected during the nesting season under the Wildlife and Countryside Act 1981 and it is recommended that, should the development be permitted, a Note should advise the developer that any site clearance should be completed outside the nesting season (August – end February).

Energy

The development would have a substantial predicted overall annual operational energy load and would give rise to significant estimated carbon emissions

The original energy statement assessed various renewable technology options and considered that only a wind turbine was feasible. However I disagreed with the conclusions of the report and was not convinced that a turbine of sufficient size could be satisfactorily installed. The applicant has submitted a further statement which indicates that alternative renewables (to wind) are likely to be feasible and that the applicant is willing to consider these alternatives.

In addition, the applicant has drawn attention to Speedway's environmental initiatives in Sweden which include:

- the use of high octane pure methanol - a fuel made from potatoes – as fuel, which emits insignificant exhaust fumes;
- the oil used in engines without closed lubricating systems is recycled
- only high pressure water, with no added solvents or cleaning agents, is used to clean each bike
- the track surface consists of natural shale and has no artificial binding agents
- the FIM Speedway runs clear of any tobacco sponsorship

The applicant has also pointed out the policy of the ODA (Olympic Delivery Authority) and Sport England that sports pavilions should be built to the very highest sustainable standards, such as for the ODA, 20% of the energy demands should come from renewable sources. However the ODA exempts playing pitches as this is unachievable in capital cost terms.

I accept that compliance with policy BE17 Combined Heat and Power/ Community Heating is not viable and therefore policy BE17 would be met.

I would be satisfied with the standard energy condition being attached to any approval.

Flood risk

The development lies within flood zone 1 as defined by the Environment Agency floods maps and is outside any area indicated as a flood risk. (The Environment Agency is aware that the proposal site is located on top of land that is contaminated by heavy metals).

Land Contamination

Beaumont Park is a former landfill site. In 1998, a City Council commissioned, environmental investigation established the presence of significant landfill gas levels

associated with the fill. In 1999, a gas impermeable barrier was installed along the western boundary between Bennion Road and Beaumont Way (to the south of the Tesco building) to protect nearby residential properties. The integrity of this structure would need to be maintained. Furthermore, the impact of the development on potential of offsite landfill gas migration would need to be considered. The pockets of methane gas on site should not present any major issues during construction other than the traditional barrier within the floor slabs, at the base of lamp posts and floodlight poles.

If approved a condition should be attached to require a further report and remediation measures if required before development commences.

Security

While the speedway area, the cycle track and the football pitches would be closed and secured outside opening hours, the site itself, the BMX track and the car park would remain open at all hours. This has advantages in terms of accessibility to the general public, but it raises security issues that need to be addressed, particularly as the area would have no natural surveillance.

It is proposed to secure the car park against unauthorised vehicles with a barrier which would be locked at night by the last user (excluding BMX track). The police would accept a substantial barrier with appropriate locking mechanisms. The controlled access should also have barriers to prevent unauthorised access.

The football pavilion and speedway building could be at risk from damage, graffiti and break-ins, and measures must be taken to protect the buildings from these risks. The applicant is willing to consider additional security features

The Police require details of the fencing arrangements around the facilities. This would be covered by the landscaping condition. Further details are also required of the site security measures in general including CCTV provision and whether that would be linked to the Blackbird Road control centre. I consider that if approved a condition should be attached requiring security and management measures to be put into place and reviewed at intervals, and additional measures incorporated if required. The Police also suggest that lighting should be reviewed after a period of time, with the understanding that extra lighting will be provided if considered by the police to be necessary – for example for the BMX track. However, the applicant states that there is no likelihood of the BMX being floodlit under the current funding plan from Sport England. The applicant is aware of only one outdoor BMX track in the country where there are floodlights and this is where the Olympic team train in Manchester. The applicant states that it is highly unlikely that British Cycling would fund this

The police have also set out procedures for management of the site with which the applicant is in agreement.

The Police also require a security document to be prepared by the developer. The document should clearly outline what security and community safety issues will be included within the site and should include; proposed boundary treatments, protection of car parking and easily accessible routes (bollards or barriers) during

closed periods to prevent anti social and gathering areas, CCTV proposals, alarm proposals, general measures taken to prevent access to the site during closed periods, general security patrols and procedures during events and closed periods and door entry controls and monitoring into the site buildings/pavilions. I consider that this should be the subject of a condition if the application is approved.

Impact on existing facilities

The applicant has undertaken to find alternative accommodation for the crèche currently located in the pavilion which is to be demolished. This will need to be done before the pavilion is lost, to maintain business continuity.

The existing ball courts would be lost while the sports complex is being constructed, and it is understood that these facilities would need to be removed at an early stage. However while there would be no formal ball courts on the park during construction, there would still remain informal areas. The aim is to have the speedway track in operation for the start of the 2010 season. I consider that, if approved, a condition is required to ensure that all facilities are completed at roughly the same time.

The existing BMX track to the south of the site is little used and is not used by British cycling as was the intention because it does not meet their current requirements. However this track does not form part of the proposals and would remain in place.

Conclusion

It is my view that the criteria of PPG17 which provides guidelines on the location of large sporting facilities are met. The development may in fact reduce nuisance, for example by providing alternative activities and extra surveillance of the park, which it is hoped would lead to a reduction in anti social behaviour and illegal use of motorcycles are likely to decrease. The applicant wishes to see the facilities used extensively by the local community, during the day as well as he evening. The facility will aim to develop links with local schools, and the facilities could provide a valuable training and education resource. There is also the opportunity to link with other leisure facilities such as the Leicester Leys leisure centre, the National Space Centre and the Great Central Railway both of which are relatively close to the site.

A judgement has to be made as to whether the benefits of the facility outweigh the possible disturbance to residents. I consider that overall the development would benefit the local community and the city as a whole, and I consider that the applicant has taken all reasonable steps to minimise disturbance to residents. I RECOMMEND APPROVAL SUBJECT TO THE PROVISION OF THE FURTHER TRAFFIC INFORMATION REQUIRED AND THIS BEING ACCEPTABLE, AND SUBJECT ALSO TO THE FOLLOWING CONDITIONS:

CONDITIONS

1. START WITHIN THREE YEARS
2. Before the development commences, details of the existing site levels and the finished floor levels shall be agreed in writing with the City Council as local planning authority and the development shall be carried out in accordance

with the agreed details. (In the interests of the satisfactory development of the site and in accordance with policy PS10 of the City of Leicester Local Plan).

3. The speedway track, five a side football pitches and cycle track shall not be used outside the hours of 0800-2230 daily. The speedway stand and football facility building shall not be used outside the hours of 0800-2330 daily.,(In the interests of residential amenity and in accordance with policy PS10 of the City of Leicester Local Plan)
4. The number of speedway race meetings shall not exceed 50 in any one year. (In the interest of residential amenity and in accordance with policy PS10 of the City of Leicester Local Plan).
5. Before the development commences, a development programme which shall set out a programme for the bringing into use of the cycle track, the 5 a side pitches and the BMX track, shall be submitted to and agreed in writing with the City Council as local planning authority, and shall be implemented in accordance with the agreed programme.
(In the interest of the satisfactory development of the site and in accordance with policies GE09 and PS10 of the City of Leicester Local Plan).
6. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, the site and buildings thereon shall only be used for the purposes set out in the application form and hereby approved, and not for any other uses falling within Use Classes D1 or D2. (The City Council would wish to give separate consideration to other uses, having regard to the implications for traffic generation and local amenity, in accordance with policy PS10 of the City of Leicester Local Plan).
7. Before the use commences, specifically designed acoustic boarding shall be installed around the pit area and shall be in place at all times when speedway bikes are using the pit area, and shall totally enclose the pit area, except for the designated entrance/exit point. This entrance/exit point shall face east towards the industrial estate. The details of the acoustic boarding shall be agreed in writing with the City Council as local planning authority prior to its installation, and the boarding shall be maintained thereafter to the satisfaction of the City Council. (In the interests of residential amenity, and in accordance with policy PS10 of the City of Leicester Local Plan)
8. Before the development commences, details of the specification and operation of the public address system shall be submitted to and agreed in writing with the City Council as local planning authority, and shall be implemented in accordance with the agreed details and retained as such (In the interests of residential amenity, and in accordance with policy PS10 of the City of Leicester Local Plan)
9. Before the development commences, a security plan shall be submitted and agreed in writing with the City Council as local planning authority. The document shall outline the security and community safety measures to be incorporated within the development, including: proposed boundary

treatments, protection of car parking and easily accessible routes (bollards or barriers) during closed periods, and general measures taken to prevent access to the site during closed periods, CCTV proposals, alarm proposals, procedures during events and closed periods, door entry controls and monitoring of buildings. Measures shall be put into place in accordance with the agreed details before any of the uses on the site commences. (In the interest of the satisfactory development of the site and in accordance with policy PS10 of the City of Leicester Local Plan).

10. Details of the lighting for the public routes and car parking shall be agreed in writing with the City Council as local planning authority before the development commences, and the lighting including floodlighting shall be installed in accordance with the submitted details before the development is brought into use and shall be retained as such. (To protect the amenity of nearby occupiers and in accordance with policies PS10 and BE22 of the City of Leicester Local Plan.)
11. At the same time as the remainder of the development, all parking areas shall be surfaced and marked out in accordance with details which shall first have been agreed in writing with the City Council as local planning authority, which shall include at least 11 spaces for the use of the disabled, and shall be retained and not used for any other purpose. (To ensure that parking can take place in a satisfactory manner, and in accordance with policy AM12 of the City of Leicester Local Plan.)
12. A turning space to enable vehicles always to enter and leave the site in a forward direction, shall be kept available within the site. (In the interests of highway safety, and in accordance with policy AM01 of the City of Leicester Local Plan.)
13. Space shall be kept available within the curtilage of the site to allow for loading and unloading always to take place within the site. (In the interests in highway safety, and in accordance with policy AM01 of the City of Leicester Local Plan.)
14. Prior to the occupation of the development a secure and sheltered area for the storage of at least 27 cycles shall be provided and retained thereafter in accordance with written details previously agreed with the City Council as local planning authority. (In the interests of encouraging sustainable modes of transport and in accordance with policy AM02 of the City of Leicester Local Plan.)
15. A Travel Plan relating to the development, which shall identify modal splits, proposals, targets, objectives, time scales and monitoring techniques, for discouraging the use of private cars to and from the development and encouraging the use of alternative means of travel, including increased use of public transport, shall be submitted to and agreed by the City Council as the local planning authority before the development is commenced and implemented in accordance with the agreement. The Travel Plan shall

include a separate Events Travel Plan. The Travel Plan shall deal separately with the issues relating to the Stadium, the 5-a-side Football pitches, the BMX site and the cycle track. The Travel Plan shall include provision for transport mode, measures to minimise pollution, and travel pattern surveys to be conducted every twelve months or at intervals to be agreed from the first occupation of the development until an agreed date, and shall examine the contribution that can be made by walking, cycling, use of public transport, coaches, car sharing, and the provision and control of car parking. The Plan shall identify a co-ordinator and point of contact for the purpose of the plan. The Travel Plan shall be carried out as agreed. (In the interest of sustainable transport system and in accordance with policy PS03 of the City of Leicester Local Plan.)

16. 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on the Highway boundary on both sides of the access in accordance with the standards in Leicester City Council's adopted guidance Leicestershire County Council Highway Requirements for Development'. (In the interest of highway safety and in accordance with policies AM01 and PS10 of the City of Leicester Local Plan)
17. Before the development commences, design details of how the development will contribute towards the Regional and Local Plans' target of 13% of the total predicted energy demand for the site to be renewable energy, and design details of how the development will contribute towards energy conservation through reducing consumption, shall be submitted to and agreed in writing with the City Council as local planning authority. Within 4 weeks of the occupation of any part of the development, evidence shall be submitted to and agreed in writing with the City Council as local planning authority which demonstrates the satisfactory operation of any on-site installation. (In the interests of sustainable development and in accordance with policies UD04 and BE16 of the City of Leicester Local Plan.)
18. The application site shall be investigated for any contamination arising from current or former uses. A site investigation report incorporating a suitable risk assessment shall be submitted to, and approved by, the Local Planning Authority.
For all risks identified by the above risk assessment as being unacceptable for the proposed use, remediation proposals shall be submitted to, and approved by, the Local Planning Authority.
Prior to use of any part of the development, a completion report relevant to that part of the development shall be submitted to, and approved by, the Local Planning Authority. The completion report shall contain:
 - (i).A full description of the works undertaken in accordance with the approved remediation proposals.
 - (ii).Results of any additional investigation or remediation works undertaken.
 - (iii).A statement, signed by the developer or the approved agent, confirming that all remediation work has been completed.
19. Development shall not begin until a detailed sustainable urban drainage scheme for the site has been submitted to and approved in writing by the local

planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. (To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of these, in accordance with policy BE20 of the City of Leicester Local Plan).

20. The development shall not commence until such time as a scheme to install trapped gullies has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved. (To prevent ground and surface water pollution and in accordance with policy BE20 of the City of Leicester Local Plan)
21. The development hereby permitted shall not commence until such time as a scheme to install oil and petrol separators has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved. (To prevent ground and surface water pollution and in accordance with policy BE20 of the city of Leicester local plan)
22. Trees to be retained should be adequately protected during the construction phase, in accordance with BS 5837:2005 'Trees in Relation to Construction'. Only those trees that can be successfully retained in the long term shall be identified for retention. Before the development commences, a scheme of planting to compensate for loss of any soft landscaping, including loss of trees, shall be agreed in writing with the City Council as local planning authority. (In the interest of the satisfactory development of the site and in accordance with policies GE09 and UD06 of the City of Leicester Local Plan)
23. Before the development commences, details of the proposed habitat creation zone shall be agreed in writing with the city council as local planning authority and shall be implemented in accordance with the agreed details within 6 months of completion of the development and shall be maintained in accordance with details previously agreed in writing with the city council as local planning authority. (In the interests of sustainable development and in accordance with policies GE09 and UD06 of the City of Leicester Local Plan.)
24. If development does not commence within 12 months of the November 2008 survey to determine badger activity and presence at the site, a further survey shall be carried out immediately prior to the commencement of the development, and if further activity has taken place, the appropriate mitigation procedures as detailed in the Badger Report submitted with the application shall be implemented before commencement of the development. (To minimise harm or loss to the species and its habitat and in accordance with policy GE05 of the city of Leicester local plan)
25. At the commencement of development a qualified ecologist shall be present on site to confirm that no sett building has taken place since the survey was carried out (in the interests of species protection and in accordance with policy GE05 of the City of Leicester Local Plan)

26. The approved landscaping scheme, including the reinstatement of damaged areas outside the site boundaries as shown on drawing 3025 (08) 010 rev A, shall be carried out within one year of completion of the development. For a period of not less than 10 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 policies GE09 and UD06 of the City of Leicester Local Plan.)
27. This consent shall relate solely to the submitted plans 3025 (08) 002, 003, 004 and 08/788/SJ/L02 received by the City Council as local planning authority on 8 May 2009; plan 3025 (08) 005 rev A and lighting details received by the City Council as local planning authority on 8 June 2009; and plans 3025 (08) 001 rev A and 010 rev A received by the City Council as local planning authority on 19 June 2009, unless otherwise agreed in writing with the City Council as local planning authority. (For the avoidance of doubt.)

NOTES FOR APPLICANT

1. With regard to conditions concerning control of noise, the applicant is advised to contact Robin Marston in the Noise Team (tel 0116 252 6436) for further advice on methods of installation etc.
2. With regard to condition 18, the applicant is advised to contact Andy McParland in the Pollution Control Group, tel 0116 252 6441
3. Sport England has raised an issue concerning the adequacy of the changing room provision for the Five a Side football and is concerned that competing teams may need to share changing rooms. This matter should be discussed and resolved with Sport England at the earliest opportunity.
4. If any Great Crested Newts are found during the clearance or construction phase of the development, work must stop immediately and a qualified ecologist must attend the site to confirm identification and take appropriate action in accordance with English Nature's mitigation guidelines of 2006. For further advice contact the City Council's Nature Conservation Officer Helen O'Brien tel 0116 252 7268.
5. Lighting should be designed to minimise harm or loss of bats or their habitat. Lighting should if possible avoid areas which could be used by bats and birds. For further advice contact the City Council's Nature Conservation Officer Helen O'Brien tel 0116 252 7268.
6. The vegetation on the site makes it likely that there will be breeding wild birds using the site to roost and nest. Such birds are all protected by the Wildlife and Countryside Act 1981 during the breeding season which is between March to the end of July. Site clearance should not be carried out during this period.

7. Due to the evidence of badger activity within the site, opportunities should be taken to enhance the woodland and hedgerow cover around the site to provide an improved habitat for the species which could allow them to make more use of the site boundary and beyond. Such tree and hedgerow planting would also have nature conservation value
8. The applicant is reminded of the Procedures for Management of the Site set out by the Leicestershire Constabulary and is advised to follow these.
9. The applicant will be responsible for the cost of any tree works required as a result of the development, including works required to any trees affected by the application that are not on the application site. The applicant is requested to arrange a meeting with Alan d'Albe (0116 291 4478) prior to the start of works to agree the detail of tree works.

Policies relating to this recommendation

2006_GE09	Planning permission will not be granted for development which would endanger or encroach upon Green Space as shown on the Proposals Map unless it meets the criteria set out.
2006_GE15	Criteria for the development of all or any part of a playing field for other uses.
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_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_UD01	Planning permission granted for sustainable high quality building designs providing proposals take into consideration criteria.
2006_UD02	Planning permission will be given for new development where buildings make a positive contribution to the street scene and create a sense of identity.
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.
2006_PS03	Planning permission will be granted for development where it is in accordance with the objectives and policies of the Local Transport Plan.
2006_AM11	Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.
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_UD04	Planning permission will not be given for development proposals which would fail sufficiently to achieve efficiency in the use of energy.
2006_BE16	Planning permission will be granted for the development of renewable energy installations where local impacts are not outweighed by wider benefits. Major developments must realise their potential for incorporating renewable energy technologies.
2006_BE17	Planning permission will be granted for infrastructure associated with combined heat and power schemes where local impacts are not outweighed by wider benefits. Major developments and those within the SRA must source their energy from CHP where feasible.
2006_BE20	Developments that are likely to create flood risk onsite or elsewhere will only be permitted if adequate mitigation measures can be implemented.

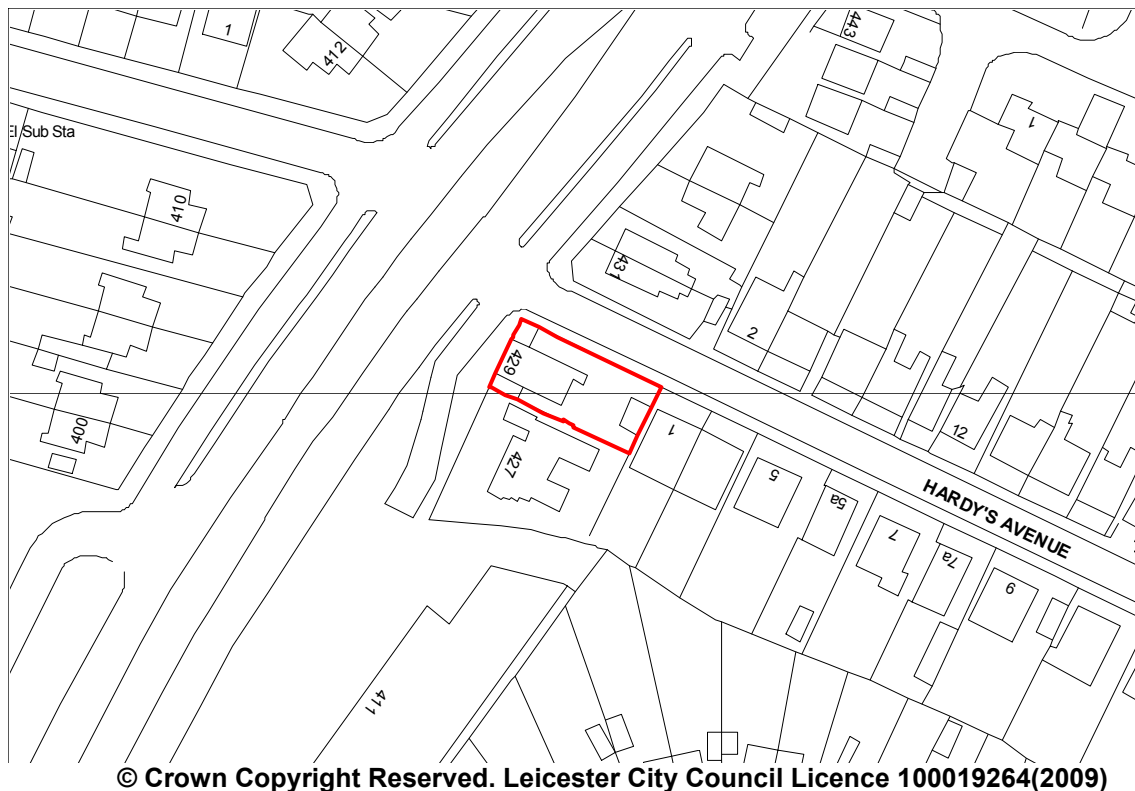
Recommendation: Conditional approval	
20090660	429 MELTON ROAD
Proposal:	VARIATION OF CONDITION 2 OF PLANNING PERMISSION 20051153 (TO ALLOW OPENING ON SUNDAYS BETWEEN THE HOURS OF 1100 - 2200)
Applicant:	MR B SHAH
App type:	Operational development - full application
Status:	Minor development
Expiry Date:	23 July 2009
PO	WARD: Rushey Mead

Summary

- Planning application is for a variation of condition 2 attached to planning permission 20051153 to allow opening on Sundays during 1100 – 2200 hours on permanent basis.
- The site is within a residential area and the previous limited period consent for Sunday opening was granted in 2007 to keep the matter under review.
- The application is being reported to committee because a petition objecting to application containing 9 signatures is received.
- Application is recommended for a further limited period because this is a non-conforming use within a residential area and there is a potential of adverse impact on residential amenity.

Introduction

The application relates to a detached property located on the corner of Melton Road and Hardys Avenue currently being used as a restaurant (Class A3.) It is within a primarily residential area as defined in the City of Leicester Local Plan (CLLP.)



Background

Limited period planning permission (20072097) was granted in January 2008 to allow the premises to be open for business 1100 to 2200 on Sundays until 31st January 2009. This consent has now expired.

Planning permission (20051153) was granted in October 2005 for change of use from hot food takeaway (class A5) and shop (Class A1), to a restaurant (Class A3).

Planning permission was granted (20011541) for change of hours of use for hot food takeaway (between 9.30-23.00 hours Mondays to Saturdays).

The Proposal

The applicant proposes to continue to open the restaurant on Sundays between the hours of 1100 - 2200. The proposal is identical to the limited period consent to trade on Sundays that was granted in 2007, but continuing on a permanent basis.

Policy Considerations

City of Leicester Local Plan policies relevant to this application are listed at the end of this report.

Additional guidance is provided in SPG 'Guidelines for Class A3 Uses in Local District and Town Centres.

Consultations

Noise Team – no complaints have been received during the temporary consent for one year. Recommend a condition that no live or amplified music or voice played which would be detrimental to amenities of nearby properties.

Representations

One petition has been received with 9 signatories on it, although the signatories have stated on the petition they wish to remain anonymous. The petition raises the following concerns:

- The volume of traffic will increase;
- The noise increase considerably;
- The location is not in a shopping area but in a residential area.

Consideration

Although the application site is located within a residential allocation, the restaurant has a lawful use and has been there for a number years.

The premises faces onto the busy Melton Road, however, the property is surrounded by residential properties.

The SPG ‘Guidelines for Class A3 Uses in Local District and Town Centres’ gives advice that hot food uses should be located within local and district shopping centres. Locating hot food uses in shopping areas ensures that the impact on residential amenity is kept to a minimum. Background noise levels tend to be lower on Sundays and there is an expectancy of fewer disturbances in residential area than in the local shopping areas.

Planning permission was previously granted on a temporary basis to keep the matter under review in the interests of residential amenity since the application relates to a nonconforming use outside of the local shopping centre. No complaints have been received during the temporary period, however business practices may change resulting detrimental impact on residential amenity. Because there is a potential of adverse impact on the residential area, I do not consider it appropriate to grant permanent permission.

I therefore recommend APPROVAL on a further limited period basis subject to the following conditions:

CONDITIONS

1. The premises shall be closed for business outside the hours of 0930 to 2300 Monday to Saturday and 1100 to 2200 Sunday, until 31 July 2011. (To keep the matter under review in the interests of residential amenity and in accordance with policies PS10 and R06 of the City of Leicester Local Plan)

NOTES FOR APPLICANT

1. REASON FOR APPROVAL. In the view of the City Council, the proposal complies with the relevant criteria in the City of Leicester Local Plan policies listed in this decision, and with SPG - Guidelines for A3, A4 and A5 uses in local, district and town centres and there are no material considerations which outweigh these policies. The City Council considers that any harm to residential amenity can be overcome by the attached conditions.

2. This consent is for a variation of hours as specified under condition 1 for a limited period only. The relevant conditions under the original planning permission (20051153) must be complied with unless a further permission is obtained. If you or anyone else wishes to apply for a further permission, this should be done at least two months before the expiry date given by condition 1, and you should contact the City Council's Planning Management and Delivery Group (telephone (0116) 252 7249) before making your application to ask whether further permission might be granted. After 31 July 2011 and without the benefit of an appropriate planning permission in place, the hours outlined in condition 2 of the original planning permission remain in force and must be complied with. **YOU SHOULD NOT EXPECT ANY FURTHER REMINDER REGARDING THIS LIMITED PERIOD CONSENT.**

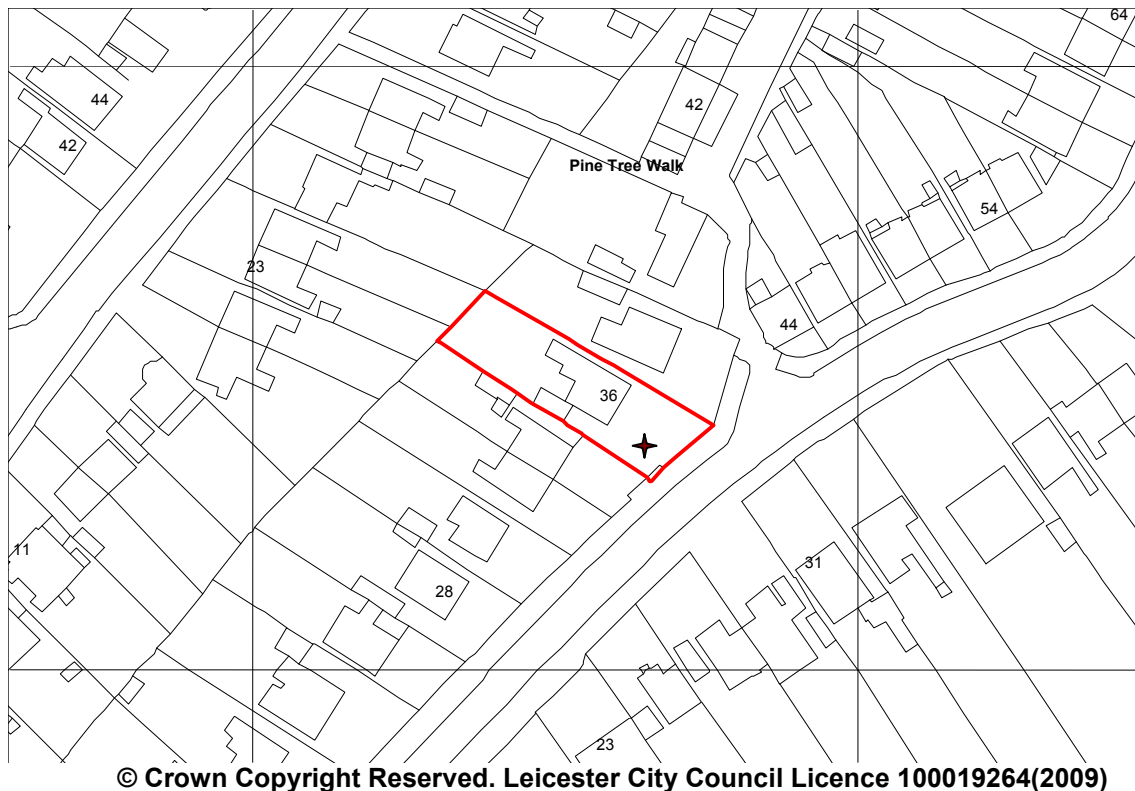
Policies relating to this recommendation

- 2006_PS10 Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
- 2006_R06 Planning permission will not granted for new local shops and facilities outside the centres identified on the Proposals Map unless they can meet criteria.

Recommendation: Conditional approval	
20090718	36 PINE TREE AVENUE
Proposal:	FELLING OF ONE TREE PROTECTED BY TREE PRESERVATION ORDER N4.242
Applicant:	MR SYDNEY GEORGE HEATH
App type:	Control of works to protected trees
Status:	Other development
Expiry Date:	4 August 2009
PC	WARD: Humberstone & Hamilton

Summary

- Pine Tree Avenue is characterised by an avenue of 21 large Wellingtonia trees that stand on both sides of the road. This avenue of unusual trees is a great asset to the city.
- The City Council has consistently resisted applications for their felling, and appeals against refusal of consent have been dismissed.
- The Tree Preservation Order protects a total of 28 trees, and the tree the subject of this application is a cypress, not a Wellingtonia.
- Two letters of objection bearing a total of 13 signatures from ten different addresses on Pine Tree Avenue.
- The main issues are the effects of the tree on the residential amenities of the application property and the amenity value of the tree.
- It is acknowledged that the tree provides amenity value but it harbours pigeons thus result in unhygienic conditions, is causing damage to the front boundary wall, and causes shading when viewed from the front windows of the bungalow.
- The application is recommended for approval, subject to a condition requiring the planting of a new Wellingtonia tree.



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Introduction

This application is to fell a conifer tree (cypress) in the front garden of a bungalow. It is submitted on behalf of the residents at the property, who are elderly and are finding it difficult to cope with the adverse effects of the presence of the tree.

Background

Tree Preservation Order N4.242 was made in 2001 to protect 28 individual trees on both sides of Pine Tree Avenue. The majority of the trees the subject of the TPO are Wellingtonias (21), but the Order also protects a pine, two cedars, a beech, a chestnut, a lime and a cypress. Records indicate that the Wellingtonia trees formed an avenue on either side of the driveway to an old manor house before the houses were built in the 1920s. The other trees do not have the same historical connections.

The Proposal

The applicant refers to tree as a 'Scottish pine', which is incorrect. In a short statement accompanying the application, the following points are raised:

- There are many protected trees in Pine Tree Avenue, the majority are Wellingtonias.
- 36 Pine Tree Avenue has two protected trees on the premises – a Wellingtonia and the application tree. The application tree has dense branches and needles, which are a perfect habitation for pigeons; the Wellingtonia's branches are well-spaced and do not attract the pigeons.
- An excessive amount of bird faeces is deposited on the drive, garden and the pavement.

- The occupiers of the bungalow are an elderly couple who are now unable to clean the surfaces every day to maintain hygiene.
- When the weather is damp the pavement becomes extremely slippery, and an accident is likely to occur.
- The residents have contacted the City Council on many occasions to request help with cleaning. The Council have been helpful and have provided a mechanical cleaner, but have said they will not be able to do this again but could only provide a road sweeping service.
- They have been advised by a pest control company to tie silver paper to the branches to discourage birds, but feel this would be impossible for them.
- They consider the felling of the tree to be justified to remedy the present unhygienic conditions.

Policy Considerations

There are no City of Leicester Local Plan policies relevant to this application: it is not a matter related to development.

Representations

Two letters of objection have been received. One contains seven names and the other eight, although two of the names appear on both letters, so the total number of objectors is 13.

The letters make the following points.

- The tree is a beautiful tree in a green area, which is declining rapidly.
- Most residents absolutely love the trees of Pine Tree Avenue.
- The greenery has a therapeutic effect on those suffering ill-health.
- Neighbours are elderly and future generations would regret the removal of such a magnificent tree.
- Signatories are close neighbours and are mindful of the need to preserve. They oppose the cutting down of any trees.
- The proposal negates the preservation order.

The author of one of the letters states that he understands that six people objecting would automatically lead to the refusal of the application. He has been advised that this is not the case.

Consideration

The tree is a mature cypress, approximately 19m high, with a trunk diameter of 90cm and a crown radius of 5m. It stands in the front garden of the property, less than 1m from the boundary with the road and 11m from the front wall of the bungalow. The front garden is slightly raised above the level of the road, and a 40cm high retaining wall has been damaged in several places by root growth from the tree. At the time of my visit the occupier of the property was in the process of cleaning bird droppings from his driveway using a hose pipe.

The tree is in generally good condition; its crown is rather crowded with some dead wood, but leaf cover is dense and healthy.

On the opposite side of the driveway, 5m away from the application tree but within the same property, is a protected Wellingtonia tree. The two trees are of similar size and appearance, but on close inspection it can be seen that the Wellingtonia is part of a unified avenue of trees, but the cypress is not.

It appears from the application that the application tree is the one that harbours the pigeons, it is also the source of damage to the garden wall, and , because it is more central in the front garden, would be a greater cause of shading and oppressiveness when viewed from the front windows of the property.

It is indisputable that the Wellingtonias form a feature of great amenity and historical importance. They are unique in the city. Applications for the felling or inappropriate lopping of the Wellingtonias have been consistently refused in the past, and appeal inspectors have supported the Council and confirmed the great value of the Wellingtonias to the area. But the application tree is not a Wellingtonia, it is a cypress. It is a relatively common garden conifer. Although it appears similar, it has different form and leaf pattern, and it is likely to be significantly younger than the main trees in the avenue. I would be most concerned if I thought that consent in this case would set a precedent for the removal of any of the Wellingtonia trees, but in my opinion that is not the case, and therefore consider the felling of the tree to be acceptable.

The applicant has not given any indication whether a replacement tree is proposed. The front garden of the property is approximately 13m wide, and I consider that a new tree could be accommodated at the opposite side of the garden, furthest from the driveway. I would recommend a new Wellingtonia, to give an impression of continuity with the existing mature trees, although, obviously, uniformity with the existing old trees could never be achieved.

I therefore recommend **APPROVAL** to fell the cypress tree with the following conditions.

CONDITIONS

1. COMPLETION WITHIN TWO YEARS - TREES
2. In the first planting season following the removal of the tree, a replacement tree shall be planted. The replacement tree shall be a Wellingtonia, *Sequoiadendron giganteum*, and shall be planted at the eastern corner of the site, unless an alternative scheme has first been agreed in writing with the City Council as local planning authority. The replacement tree shall be maintained for a minimum period of five years following planting. If it dies, becomes seriously damaged or is removed it shall be replaced by another of the same specification at the same place in the first available planting season. (In the interests of the amenity of the area.)

Policies relating to this recommendation

None