

Recommendation: Conditional approval	
20132033	7 NUGENT STREET
Proposal:	DEMOLITION OF EXISTING FACTORY BUILDING AND REDEVELOPMENT WITH A TERRACE OF NINE HOUSES (9 X 3 BED) (AMENDED)
Applicant:	MR IQBAL GAFFAR
App type:	Operational development - full application
Status:	Minor development
Expiry Date:	5 December 2014
DW1	WARD: Fosse



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Summary

- Cllr Cassidy has requested a committee decision because of concerns about parking in the area.
- Site occupied by an unused factory, surround by residential.
- Previous refusals of applications for residential development on the site in 2007 for reasons relating to parking and living conditions.
- Main objections are on the grounds of lack of parking and effect on living conditions.

Introduction

The application relates to a vacant single storey early 20th century red brick factory on the north side of Nugent Street. It has no parking facilities. The surrounding area has a predominantly residential character comprising streets of late Victorian terraced houses interspersed by some factories many of which have been converted or the sites redeveloped.

The site is within flood zone 2 and is within 20m of a main river bank top as the Braunstone Brook runs under the existing houses on Nugent Street and Paget Road. It is within a critical drainage area and a hot spot with regard to surface water flooding.

The building extends back into the site and the majority is set back about 3m from the rear boundaries to gardens of houses on Paget Road to the north, and has a series of north light roofs. A flat roofed section of the building at the west end of the site extends up to the rear boundary. The building has no particular architectural merit.

To the east is a former factory that has been converted to four flats and may previously have been part of No 7. To the west is a row of two storey terraced houses built on the site of the Taylor Bloxham factory following approval of an application (ref 20060721) by Planning & Development Control Committee in July 2007.

On the opposite side of Nugent Street is Fiveways House an old textile factory. An appeal to convert it to 252 student flats plus 3 visitor units was allowed in March 2009. Works to convert the building commenced but have subsequently stalled. It is accepted that the development has lawfully started and could now be completed at any point in the future.

Background

The lawful use of the building appears to be industrial (Class B2) and the planning history suggests that it has been used previously as a dye house.

Application ref 20071862 for outline planning permission for nine two storey terraced houses all 2 bed was refused in November 2007 for reasons relating to:

- the absence of adequate off road parking spaces which would be detrimental to traffic management, road safety and pedestrian safety in the locality;
- the fact that the proposal lacked satisfactory details to demonstrate that minimum separation distances between facing windows of the proposed houses and those to the rear on Paget Road could be met, resulting in overlooking and a loss of privacy.

Application ref 20070615 also for outline planning permission for nine terraced houses was refused in May 2007 for the same reasons.

The Proposal

As amended it is for a terrace of 9 three bed houses. All would be two storeys with a bedroom in the roofspace served by rooflights. Each house would have a rear garden with shared entries from Nugent Street between each pair of houses. No off-street parking is included.

As first submitted the proposal was for a two storey building with a three storey central section served by dormers to provide 26 one bed self-contained flats.

The scheme was then amended to a terrace of 10 three bed house before a further amendment reduced the number to nine.

Supporting documents: flood risk assessment, highways report, Lifetime Homes Compliance developer's checklist, energy statement, viability appraisal, design and access statement.

A parking survey has also been submitted with the most recent amendment to the proposals.

Policy Considerations

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

National Planning Policy Framework (2012)

has a presumption in favour of sustainable development which for decision-taking means approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted

Supplementary Planning Documents/Guidance

Vehicle Parking Standards SPG (2006). The site is in Zone 3 for the purposes of the SPG. The maximum parking standard for three bedroom houses is two spaces per house.

Residential Amenity SPD (2008)

Consultations

Local Highway Authority: advise that when consultations on residents parking in the area were undertaken, there was a 'no' vote. Some changes to Traffic Regulation Orders in the area have been made to prevent parking around junctions. It is estimated that there would be seven car parking spaces available on-street meaning a shortfall of 19 for the development (as originally submitted).

Following the receipt of amended plans and a parking survey the highway authority comment that the maximum standard requires two car parking spaces for a dwelling with 2 or more bedrooms. Average car ownership for a house in Fosse Ward is 1.2 cars per house, which will be adjusted for the 2011 census. This would give a forecast demand of 11 car parking spaces for the proposed 9 houses. The parking survey shows that there is some surplus roadside parking space outside and opposite the site but the existing residential frontages towards Fosse Road are more heavily parked. The frontage of the site is unlikely to support a full parking demand for the development; however there is further roadside parking opposite. On completion of the Fiveways development opposite, the parking demand in the area may increase.

The responses below are based on the proposal as first submitted

Play & Youth Development: request a contribution of £22,247 which would be used to improve existing open space in the area, as the Fosse ward has deficiencies in local open space provision meaning the open space requirements of the development's future occupiers could not be met from existing provision.

Environment Agency: object in the absence of any evidence to demonstrate that the flood risk sequential test has been applied and on the grounds that the Flood Risk Assessment (FRA) does not take into account the best available information in the area and needs to be updated with the Leicester Strategic FRA to help inform finished floor levels and any additional flood risk mitigation that would have to be in place.

Environment Team: no objection subject to a condition requiring further details and implementation of the proposed solar voltaic installation.

Noise Team: no objections.

Housing Development: request the provision of 20% affordable housing on the site in accordance with CS policy 07 which equates to 5 units.

Pollution Control: recommend a condition relating to contaminated land is included should permission be granted.

Representations

Nearby occupiers were notified about the application as originally submitted for 26 flats and the subsequent amendment to 10 houses.

Application as originally submitted

Three objections on the following grounds:

- Loss of privacy and light to houses to the rear.
- Overshadowing of houses to the rear.
- Noise and disturbance from communal courtyard/amenity space would affect houses to the rear. It would be better used for car parking.

- Lack of parking, particularly in view of the conversions of the old factory opposite.
- The area is already overcrowded with people with more than one car. Parking is already a problem in the area as commuters park there because there is not a resident's parking scheme. Existing problems and traffic flows on Tudor Road will be worsened.
- Developer of the nearby scheme built in 2008 actively promoted a scheme to encourage residents of it not to have car, giving occupiers a free one year bus pass or bike, but the majority of the houses still have one car per household.
- Lack of demand for one bed flats in the area.
- Design of the front elevation is positive as it reflects adjacent houses.

Amendment to ten houses

One objection on the following grounds:

- Loss of privacy.
- A lot of the houses to the rear have no fencing in place which means they would be open to Nugent Street during construction and open to burglaries and vandalism;
- General noise and inconvenience during construction.
- What type of housing is proposed and who would it be offered to?

Consideration

The main issues are:

- The effect of the development on the character and appearance of the area;
- The effect of the development on the living conditions of nearby occupiers;
- the effect on living conditions of neighbouring occupiers and highway safety resulting from any potential increase in demand for on-street parking;
- Whether the development would be at risk from flooding or result in increased flooding elsewhere.

Character and appearance

The height and scale of the proposed terrace of houses would reflect those of the recent houses immediately to the west and the surrounding area generally. They would be built to the back edge of the footway, have a continuous ridge and eaves line; each would have a front door with shared rear accesses between each pair of houses all of which is typical of the area.

The front elevations would have corbelling to the brickwork for the eaves, string course detailing and chimneys which would add some visual interest. Provided suitable external materials are used, which can be secured by condition, I consider the proposal would reflect the Victorian terrace housing that characterises the area

and be appropriate within the streetscene. It is therefore acceptable in terms of CS policy 3.

The proposal would not result in any harm to the setting of the listed building opposite (Fiveways Houses) and as such is acceptable in terms of CS policy 18.

Living conditions – nearby occupiers

This was one of the reasons for refusal of the two applications in 2007. The rear elevation to the ground floor section of the proposed houses would extend very slightly further back than the rear wall of the recent houses to the west. The rear elevation of the first floor section would extend back slightly further but less than the ground floor. This would give a back-to-back distance of about 18m between the rear elevations of the proposed houses and those on Paget Street; and about 12m between the rear elevation of the proposed houses and the rear of the outriggers to the Paget Street houses which usually have windows to bathrooms, but in some cases may contain windows to bedrooms.

These are typical of the separation distances between rears of existing houses on streets which run parallel with each other such as Vaughan Street and Tewkesbury Street. This was accepted by Committee in respect of the adjacent site subject to a condition requiring first floor windows in the rear to be fitted with obscure glazing. I consider with such a condition the proposal would not result in a material loss of privacy to nearby occupiers on Paget Street. Rooflights in the rear roofslope would serve ensembles and wardrobes. Their height would be such that the people would not be able to look down out of them.

On balance, whilst occupiers of the houses to the rear of the site would have a perceived reduction in privacy and increase in overlooking compared with the existing relationship as the factory is only single storey, I consider the proposal to be acceptable in this respect and in accordance with policy PS10 of the Local Plan.

With regard to overshadowing, I do not consider there would be any significant overshadowing of nearby houses or their gardens and any that there may be would be similar to what was accepted for the adjacent site.

The proposal would result in the removal of a building that could, at any time, be used for industrial purposes without any restrictions, which I consider would be a benefit for nearby occupiers.

Living conditions – future occupiers of the development.

The proposal would provide a satisfactory living environment for future occupiers in terms of outlook, privacy and room sizes. Each house would have a rear garden area of about 33m². The area is well below the 100m² recommended in the Residential Amenity SPD but typical of the existing area. Although appeals where amenity areas have been smaller than the SPD standard have been dismissed for that reason, I consider that as the proposal is for terraced housing that reflects the character of the area in terms of its scale and appearance, this is on balance acceptable in terms of policy PS10 of the Local Plan and CS policy 03.

It is likely that the development could be built to Lifetime Home Standards as required where feasible by CS policy 6. A condition is recommended to secure this.

Highways and parking

I consider the proposal is finely balanced in terms of this issue. There is no parking attached to the existing building and any servicing of it including by goods vehicles would have to be from the street. Based on its floor space the maximum parking standard required by the Vehicle Parking SPG would be 9 car parking spaces.

For 9 houses as proposed the maximum standards in the Vehicle Parking SPG requires 18 car parking spaces to be provided. The Residential Car Parking Research document published in 2011 document sets out guidance to developers and others on the demand for car parking space on residential developments in the city, but is not adopted planning guidance. It is based on the 2001 census information and suggests that for 3 bedroom houses in Fosse ward the average cars per household in 2026 would be 1.2 for owner occupied houses and 0.8 for rented houses. This suggests 11 parking spaces are required. In either case as no off-road parking is proposed residents of the development with cars would need to park on street.

Policy AM12 of the local plan suggests reduction below maximum standard may be appropriate in an area immediately adjacent to the area previously identified as the Central Commercial Zone that is accessible by means other than the private car. A range of shops and facilities are available close by on Fosse Road and the city centre is within walking distance for many people so the development could be attractive to those who did not wish to own a car. As such I consider it reasonable to assume that the proposed development is likely to demand 11-14 car parking spaces on street.

Highway safety and parking was one of the main issues considered by the Inspector at the appeal relating to Fiveways House. The council withdrew one of its reasons for refusal relating to this following a commitment in a planning obligation to allow only 35 residents to use a car within the vicinity of the site which could increase to 47 residents should a car park on Vernon Street become available. The Inspector considered this demand could be adequately accommodated within the available capacity on the roads around Fiveways House. He also referred to there being limited residential accommodation opposite the site on the Vernon Street and Nugent Street frontages meaning additional on-street parking should not cause an undue conflict for spaces with those living nearby.

Such an obligation is not proposed in this case but in my opinion their effectiveness is questionable and enforcement difficult. Furthermore it is more likely that general residential occupiers would have access to a car or need to use one than student occupiers. It is unfortunate that the Fiveways House scheme has not been completed because if it had, the impacts on parking in the area would have been clearer. However, as the development has started the on-street parking capacity it would take up has to be accounted for.

A parking survey has been submitted but this overestimates the on street parking capacity on Nugent Street. It does however show how many vehicles are parked along it throughout the day from 7.00am to 7.00pm.

I consider that the parking survey submitted in support of the Fiveways House development is still valid as although it is dated, parking conditions in the area are unlikely to have changed significantly. This covers a number of streets – Tudor and Paget Road, Nugent, Vernon, Borface, Hoby and Tyrell Street. It suggests that when the 35 spaces for Fiveways House are taken into account there would still be 57 car parking spaces available in the morning peak, 73 at the lunchtime peak and 84 in the evening within these streets.

This suggests the parking demand for the development can be met from existing on-street capacity with the Fiveways scheme taken into account. Policy AM12 also allows for reductions in parking where there is a surplus of existing parking provision and indicates on-street parking may be acceptable.

As people are more likely to want to park close to where they live it is likely that there would be more competition for available spaces on Nugent Street assuming the proposed development is built and the Fiveways scheme implemented. This may mean that residents both existing and future have to use the surrounding streets to find a place to park, but I do not consider access, amenity and safety would be compromised.

I consider that on balance the proposal is acceptable in terms of policy AM12 of the Local Plan. A condition is recommend requiring the provision of travel packs to future occupiers to encourage sustainable travel choices in accordance with the aims of Core Strategy policy CS15.

Flood risk

The site is in food zone 2 which is an area with a medium probability of river flooding. The aim of the sequential test is to steer new development to areas with the lowest probability of flooding. It is the local planning authority that decides whether the test has been passed.

The general approach taken with vacant industrial buildings in existing inner city locations which need regenerating is that the test is deemed to have been passed if the development can be made safe and flood resilient, and does not increase run-off or flooding elsewhere.

Surface water run-off and potential flooding would be reduced as the area of hard standing would be reduced and sustainable drainage techniques could be incorporated into the development.

I consider it is very likely that the sequential test can be passed but further information as specified by the Environment Agency is required. Subject to the receipt of this information and it being satisfactory, I consider the proposal to be acceptable in terms of policy BE20 of the Local Plan and Core Strategy policy CS02.

Other Considerations

Affordable housing and developer contributions

The amendments to the proposals mean the number of units is now below the 15 dwelling threshold set by CS policy 07. There are therefore no affordable housing contributions required.

Recent changes to national planning policy guidance to support small scale developers make it clear that contributions should not be sought from developments of 10-units or less. As such no contributions to open space are required.

Climate change

The relevant development policies are only applicable to major developments, which for residential is defined as 10-units or more. The amendments to the proposals mean that the number of units is below this and as such there are no renewable energy requirements.

Disruption and security

I note the concerns raised in this respect but I do not consider the scale of the development is sufficient to warrant the requirement for a construction management plan. Any disturbance would be temporary and not significant. Matters relating to the security of the site during construction cannot be given significant weight and development sites are usually made secure out of hours for health and safety reasons as well as site security. A condition requiring suitable boundary treatments to be in place before occupation is recommend.

Conclusion

The proposed development will add to the supply of housing in the city and make use of a vacant site in a sustainable location. The change to three bed houses rather than small flats is welcomed. The design of the development is acceptable and should improve the streetscene.

Concerns about further on-street parking are understandable but I consider there is still capacity in the area to absorb it. There is an outstanding matter in relation to flooding that needs to be resolved.

Subject to the receipt of further information in respect of flood risk and it being acceptable, 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 approved in writing by the local planning authority. The details shall include the preparation of a one square sample of

the proposed brickwork at the site for inspection by the local planning authority. Development shall be carried out in accordance with the approved details.

(To ensure only appropriate materials are used on the exterior of the building, in the interests of the appearance of the development, in accordance with the aims of Core Strategy policy CS03)

3. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.

If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

(To ensure the site is free from contamination in the interests of public health and safety and in accordance with policy PS11 of the City of Leicester Local Plan)

4. No dwelling hereby permitted shall be occupied until all first floor windows in the rear elevations have been fitted with obscured glazing and any part of the windows that is less than 1.7 metres above the floor of the room in which it is installed shall be non-opening. The windows shall be permanently retained in that condition thereafter.
(To protect the privacy of the occupiers of the houses to the north of the site on Paget Road)
5. No dwelling hereby permitted shall be occupied until lockable gates have been installed at the entrance to each shared rear access way in accordance with details that have first been submitted to and approved in writing by the local planning authority. The gates shall thereafter be retained.
(In the interests of the security of the dwellings and in accordance with Core Strategy policy CS03)
6. No pipes (other than rainwater pipes), vents, flues grilles or similar shall fitted in or to the front elevation of the development hereby permitted other than in accordance with details that have first been submitted to and approved in writing by the local planning authority.
(To ensure the appearance of the development is satisfactory, in accordance with Core Strategy policy 03)

7. No dwelling hereby permitted shall be occupied until the rear (north) boundary of the application site and the boundaries of the gardens to the houses have been enclosed in accordance with details that have first been submitted to and approved in writing by the local planning authority.
(To ensure reasonable levels of privacy and security are provided for the occupiers of the development and those of adjacent houses on Paget Road, and in accordance with Core Strategy policy CS03.)
8. No part of the development shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall: (i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; (ii) include a timetable for its implementation; and (iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
(To reduce the risk of flooding from surface water as the site is within a critical drainage area and an identified hot spot and in accordance with policy BE20 of the City of Leicester Local Plan)
9. Within one month of the first occupation of any dwelling, the occupiers of each of the dwellings shall be provided with a 'New Residents Travel Pack', the contents of which shall have first been submitted to and approved in writing by the local planning authority. The travel packs shall include walking, cycling and bus maps, and the latest relevant bus timetable information.
(To encourage residents to consider the use of sustainable modes of travel and reduce the demand for on-street parking, and in accordance with the Core Strategy policy CS15)
10. No development shall take place until details showing how all dwellings will be designed, constructed and maintained to Lifetime Homes Standards (July 2010) and the Lifetime Homes Design Guide (2011) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with approved details.
(To ensure the houses are adaptable enough to match lifetime's changing needs in accordance with Core Strategy policy CS6)
11. The development hereby permitted shall be carried out in accordance with the following approved plans except as may be provided for by the conditions above: 640/01 (dated October 2013) and 640/05, 640/06 (dated October 2014)
(For the avoidance of doubt.)

Policies relating to this recommendation

- 2006_AM01 Planning permission will only be granted where the needs of pedestrians and people with disabilities are incorporated into the design and routes are as direct as possible to key destinations.
- 2006_AM02 Planning permission will only be granted where the needs of cyclists have been incorporated into the design and new or improved cycling routes should link directly and safely to key destinations.
- 2006_AM12 Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01.
- 2006_BE16 Planning permission will be granted for the development of renewable energy installations where local impacts are not outweighed by wider benefits. Major developments must realise their potential for incorporating renewable energy technologies.
- 2006_BE20 Developments that are likely to create flood risk onsite or elsewhere will only be permitted if adequate mitigation measures can be implemented.
- 2006_PS10 Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
- 2006_PS11 Control over proposals which have the potential to pollute, and over proposals which are sensitive to pollution near existing polluting uses; support for alternative fuels etc.
- 2014_CS01 The overall objective of the Core Strategy is to ensure that Leicester develops as a sustainable city, with an improved quality of life for all its citizens. The policy includes guidelines for the location of housing and other development.
- 2014_CS02 Development must mitigate and adapt to climate change and reduce greenhouse gas emissions. The policy sets out principles which provide the climate change policy context for the City.
- 2014_CS03 The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'.
- 2014_CS06 The policy sets out measures to ensure that the overall housing requirements for the City can be met; and to ensure that new housing meets the needs of City residents.
- 2014_CS14 The Council will seek to ensure that new development is easily accessible to all future users including by alternative means of travel to the car; and will aim to develop and maintain a Transport Network that will maximise accessibility, manage congestion and air quality, and accommodate the impacts of new development.
- 2014_CS15 To meet the key aim of reducing Leicester's contribution to climate change, the policy sets out measures to help manage congestion on the City roads.
- 2014_CS17 The policy sets out measures to require new development to maintain, enhance and strengthen connections for wildlife, both within and beyond the identified biodiversity network.
- 2014_CS18 The Council will protect and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.