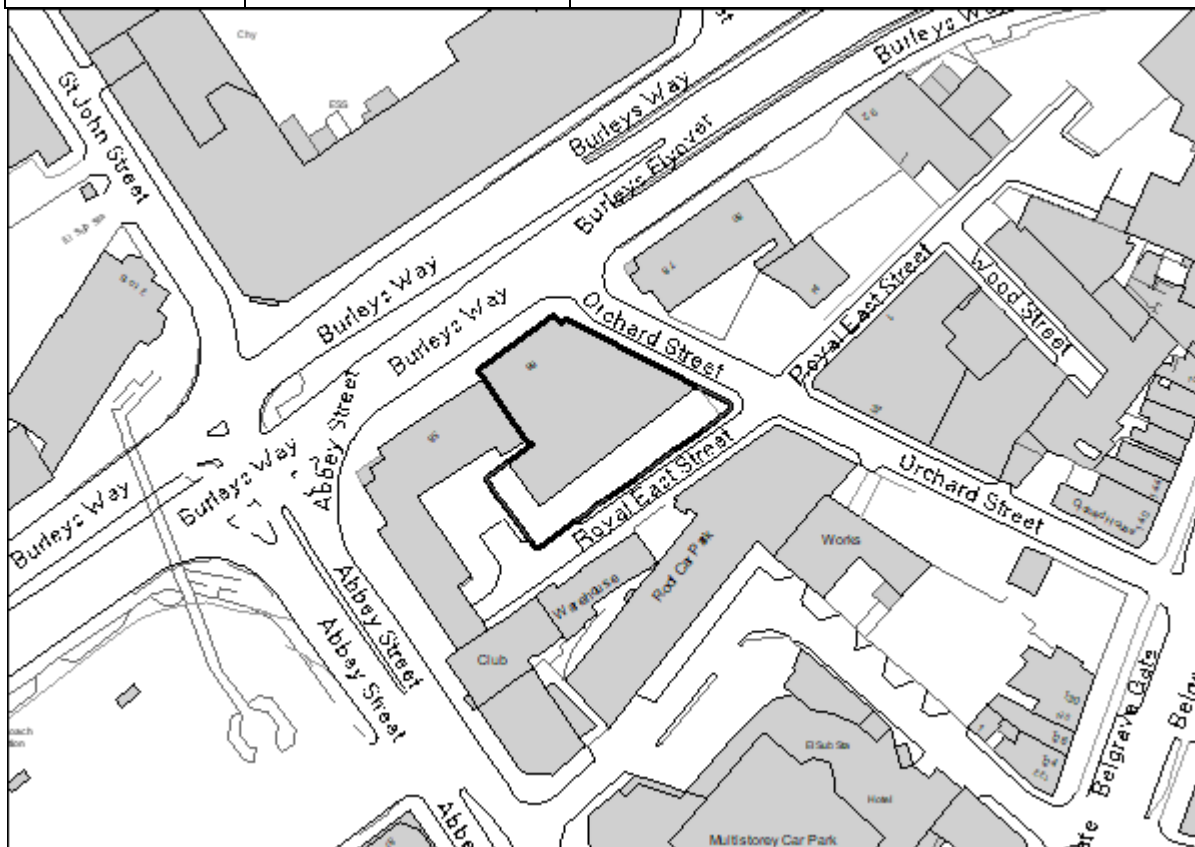


# COMMITTEE REPORT

<b>20230641</b>	<b>66 Burleys Way</b>	
Proposal:	Change of use of part of ground floor and all of first floor from shop (Class E) to place of worship, public hall, and day care centre (Classes F1 and E) (Amendments received 4 July and 2 August 2023)	
Applicant:	Mr Omorinola Osunmakinde	
App type:	Operational development - full application	
Status:	Change of use	
Expiry Date:	8 June 2023	
CY1	TEAM: PD	WARD: Castle



©Crown Copyright Reserved. Leicester City Council Licence 100019264(2023). Ordnance Survey mapping does not imply any ownership boundaries and does not always denote the exact ground features.

## Summary

- Application brought to committee as 16 objections from 11 city addresses.
- Support received from Cllr Kitterick.
- Main issues are acceptability in principle, residential amenity, and highways.
- Objections relate to highway issues and parking, along with the use in principle.
- The application is recommended for approval.

## The Site

The application relates to a two-storey commercial unit residing within the following policy allocations:

- Central Commercial Zone
- Strategic Regeneration Area
- St George's Area

The site lies in an archaeological alter area, an air quality management area, and a critical drainage area.

## Background

No recent relevant planning history

## The Proposal

The proposed development is for the change of use of the first floor and part of the ground floor unit from a retail unit (Class E) to a mixed-use unit comprising of a place of worship, public hall, and day care centre (Classes E and F1).

The site holds 13 spaces including 2 disabled parking spaces to the rear. These would be shared with the lower ground retail unit. The new use would be accessed from the front of the site on Burley's Way with the retail unit accessed through the rear carpark.

No external alterations are proposed. Opening hours are requested to be 7am to 10pm Monday through Sunday, including bank holidays.

A travel plan and noise impact assessment were submitted on the 4<sup>th</sup> July along with slight alterations to the parking layout on the location and site plans. One parking space was changed to allow for a Sheffield cycle space rack accommodating 12 cycle spaces. An amendment was made to the travel plan on the 2<sup>nd</sup> August adding the travel plan co-ordinator's contact details to the travel plan.

## Policy Considerations

### National Planning Policy Framework (NPPF) 2021

Paragraphs 2 (Application determined in accordance with development plan and material considerations)

Paragraph 11 (Presumption in favour of Sustainable Development)

Paragraphs 39 and 40 (Pre-applications)

Paragraphs 43 (Sufficient information for good decision making)

Paragraph 56 (Six tests for planning conditions)

Paragraphs 86 to 91 (Ensuring the Vitality of Town Centres)

Paragraph 93 (guarding against the unnecessary loss of valued facilities and services)

Paragraphs 111 and 112 (Highways impacts)

Paragraphs 185 to 188 (Noise Pollution)

### Development Plan policies

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

### Supplementary Planning Documents (SPD)

Residential Amenity SPD (2008)

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

Leicester Street Design Guide (2020)

## Consultations

Pollution (Noise) – no objections subject to conditions

Local Highways Authority – no objections subject to conditions

## Representations

16 objections have been received from 11 address within the local authority boundary with the following concerns:

- Existing illegal parking issues in area, in particular at Royal East Street Car Park which could be exacerbated by development
  - Poor behaviour from users of site
  - Lack of attendance from traffic wardens during and property management who manage the car park
- Existing churches within the immediate area
  - Potter's house is stated to have a capacity of 100 people who have an agreement with the application site on Sunday and Thursday evenings
- Limited parking within ¼ mile radius from the building
  - Could lead to closure of existing churches
- Highway safety issues caused by parking

It should be noted 2 additional objections were raised from 2 addresses outside the local authority boundary sharing these concerns.

2 supporting comments have been received from 2 addresses within the local authority boundary with the following comments:

- Sustainable location as next to bus station
- Notes many objectors are from the neighbouring church and points out the lack of support from these followers does not correlate with Christian values
- Lists number of carparks in immediate vicinity and that these provide around 1000 parking spaces.
- Use would be a benefit to the community
- Notes neighbouring church lost out on the bid that this church won

It should be noted 1 additional supporting comment was received sharing these views from outside the city boundary.

A supporting comment has also been received from Councillor Kitterick who considers the use is in a sustainable location and an important use for the city. He notes the issues relating to parking but does not consider them significant enough to warrant a reason for refusal.

## Consideration

The site is located within the central commercial zone. The use would result in a loss of retail space however there would be some retained on the ground floor of the building. The site is within St George's Area as indicated on page 14 of the 2016 Saved Local Plan.

Local Plan saved policy PS06 states that the following factors will be taken into consideration new development proposals in this location.

- a) the contribution towards the formation of new and improvement of existing links between the City centre, surrounding residential areas and within the St. George's area itself;
- b) the provision of new housing providing a mixture of house type, size and affordability;
- c) the provision of modern business accommodation including live/work accommodation for small businesses;
- d) the contribution to provision of high quality public realm and a varied mix of open spaces throughout the area; and
- e) links and complementarity with the Cultural Quarter, St. George's South.

Core Strategy policy CS06 states that *"new developments should create an environment for culture and creativity to flourish by... Creating or retaining cultural facilities and opportunities, including places of worship, cemeteries and crematoria, that help people who live here to develop a sense of belonging, to value the cultural diversity and heritage of our City and become more confident and proud of Leicester, seeing it as a good place to live;"*

National Policy Framework paragraph 93 states decisions should *"a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments; b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community; c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; ... and e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services."*

I consider the uses proposed for this site would be complementary to the needs of residential uses within this location and the site would be an appropriate place for this type of use, in consistency with the St Georges Area's aims. I also consider that the place of worship element would comply with policy CS06 above, and the mixed use would comply with paragraph 93 of the National Planning Policy Framework.

I note there are concerns regarding the number of churches within the immediate vicinity of the site, including one adjacent. However, I am mindful that most of these have no restrictions on their permitted development rights, meaning they have freedom to change use to any type of place of worship or other alternate use within Class F1 of the Town and Country Planning (Use Classes) Order 1987. I am also

mindful that there is diversity within Christianity which would require a number of churches to cater for different belief systems and practices and it is difficult to empirically quantify demands from different groups. As such, I do not consider there to be an overconcentration of churches in this area.

#### Residential amenity (neighbouring properties)

Policy CS03 of the Leicester Core Strategy (2014) states that development must respond positively to the surroundings and be appropriate to the local setting and context. Saved Policy PS10 of the Local Plan (2006) sets out a number of amenity factors to be taken into account when determining planning applications, including the visual quality of the area, privacy and overshadowing, and the ability of the area to assimilate development.

The development would not result in any overbearing, overlooking, or overshadowing that would be detrimental to any neighbouring properties.

Concerns were initially raised by the noise pollution officer regarding noise nuisance from the proposed conversion. There were concerns that noise during worshipping might be detrimental to residents within close proximity, especially when musical instruments are used which often causes low frequency noise. A main concern was noise escaping through the fabric of the building, affecting residents close by. It was noted residential properties in the area do not include acoustic glazing sufficient to mitigate such noise levels, nor additional ventilation that permits windows to remain closed. Consequently, late at night and in the early hours of the morning, noise from amplified music and voice and raised voices, could prevent the normal and reasonable use of nearby properties. Noise from the use including visitor activity (doors slamming, stereo systems etc.) would be worse later at night and in the early hours of the morning when the prevailing background noise in the area is considerably lower.

The application form proposed hours of use to be between 7:00 and 22:00 which, given the site is in the central commercial zone, would be acceptable hours for the use to be open and would remove concerns regarding noise levels later at night and in the early hours of the morning. Additionally, it is considered appropriate to ensure through conditions no call to prayer, aural announcement, amplified music, nor voices played externally to mitigate noise concerns.

Lastly, a noise impact assessment was submitted on the 4<sup>th</sup> July. The assessment also included noise reduction measures. The noise officer has no objections to the scheme providing these measures are implemented along with the proposed opening hours and omission of any call to prayer, aural announcement, amplified music, or voices played externally. I recommend these are attached as conditions should the application be approved.

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

#### Highways and Parking

Core Strategy Policy CS14 states development should be easily accessible to all future users, including those with limited mobility, both from within the City and the wider sub region. It should be accessible by alternative means of travel to the car, promoting sustainable modes of transport such as public transport, cycling and walking and be located to minimise the need to travel.

Saved Policy AM11 states level of parking for non-residential development shall be determined in accordance with Appendix 01 referenced above.

It is clear from consultation responses from the public that many of the objectors are attendees of the church based in the Acorn Conference Centre on the opposite corner of Orchard Street. Whilst it is appreciated that the use would increase parking demand in the area and result in the removal of the alleged agreement between the existing church and this site this is not an overriding reason for the Highway Authority to object to the application. Being in the city centre we would fully anticipate car-borne congregants of both churches (and others in the area) to predominantly park in public car parks when attending services or other events. There are 3 multistorey car parks within a quarter mile walk of the site, all of which operate 24 hours, along with several surface level public car parks. Given the likely peak times for services and larger events (Sundays and evenings) it would seem most unlikely that there would be insufficient parking available within reasonable distance of both the application site and the neighbouring church.

The application site does, of course, have its own limited amount of parking on site. It is unlikely that this would be sufficient to cater for Sunday services and other major events. The proposal to convert 3 general purpose parking spaces to 2 mobility spaces is a positive move and is welcomed, along with the provision of cycle storage. Additionally, a travel plan has been received allocating the spaces during this time, along with the encouragement of public transportation usage, walking, and cycling.

I recommend the measures in the travel plan are conditioned should the application be approved. With these conditions, I conclude that the proposal would comply with policy CS14 of the Core Strategy (2014) and would not conflict with saved policy AM11 of the Local Plan (2006), and is acceptable in terms of highway impact and parking.

#### Waste

Saved Policy PS10 of the Local Plan (2006) sets out a number of amenity factors to be taken into account when determining planning applications, including the visual quality of the area including potential litter problems.

The waste arrangements are stated to be the same as existing, I do not consider that the change of use would significantly alter the level of existing waste.

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

#### Other matters

- Notes many objectors are from the neighbouring church and points out the lack of support from these does not correlate with Christian values
- Notes neighbouring church lost out on the bid that this church won

The patrol team try and visit Royal East Street Car Park three times a week but is unable to attend more often due to capacity issues. The site is via key access only and they have been told to notify the parking enforcement or property management team if any issues occur. Any illegal parking can be raised to parking enforcement or via the Love Clean Streets application.

The behaviour of any existing users cannot be taken into account, neither can the behaviour of beliefs of any objectors.

## Conclusion

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

### CONDITIONS

1. The development shall be begun within three years from the date of this permission. (To comply with Section 91 of the Town & Country Planning Act 1990.)
2. No part of the development shall be occupied until secure and covered cycle parking has been provided and retained thereafter, in accordance with the approved plans. (In the interests of the satisfactory development of the site and in accordance with policies AM02 and H07 of the City of Leicester Local Plan).
3. The use shall be carried out in accordance with the approved Travel Plan received by the City Council as local planning authority on the 2 August 2023. The plan shall be maintained and operated thereafter. (To promote sustainable transport and in accordance with policies AM01, AM02, and AM11 of the City of Leicester Local Plan and policies CS14 and CS15 of the Core Strategy).
4. The use shall not be carried on outside the hours of 7:00 to 22:00 daily. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
5. Development shall be carried out in accordance with section 15 'Noise management' of the approved Noise Impact Assessment received on the 4th July 2023 by City Council as local planning authority. (To safeguard the amenity of the adjoining properties, and in accordance with policy PS10 of the City of Leicester Local Plan.)
6. There shall be no call to prayer, aural announcement, amplified music, nor voices played externally. (In the interests of the amenities of nearby

occupiers, and in accordance with saved policies PS10 and PS11 of the 2006 City of Leicester Local Plan.)

7. Development shall be carried out in accordance with the following approved plans:  
Proposed Floor Plans, 22303/ PL03, received 13 April 2023  
Location map and Site Plan, 22303/ PL01, revision B, received 4 July 2023  
(For the avoidance of doubt).

#### NOTES FOR APPLICANT

1. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received. This planning application has been the subject of positive and proactive discussions with the applicant during the process (and/or pre-application).  
The decision to grant planning permission with appropriate conditions taking account of those material considerations in accordance with the presumption in favour of sustainable development as set out in the NPPF 2021 is considered to be a positive outcome of these discussions.

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

- |           |  |
|-----------|--|
| 2006_AM01 | Planning permission will only be granted where the needs of pedestrians and people with disabilities are incorporated into the design and routes are as direct as possible to key destinations.  |
| 2006_AM02 | Planning permission will only be granted where the needs of cyclists have been incorporated into the design and new or improved cycling routes should link directly and safely to key destinations.  |
| 2006_AM11 | Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.  |
| 2006_PS06 | Planning permission will be granted for development proposals that contribute to the creation of a new mixed use residential neighbourhood in the St George's area as shown on the Proposals Map.  |
| 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_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_CS16 | The Council aims to develop culture and leisure facilities and opportunities which provide quality and choice and which increase participation among all our diverse   |



communities. New developments should create an environment for culture and creativity to flourish.

