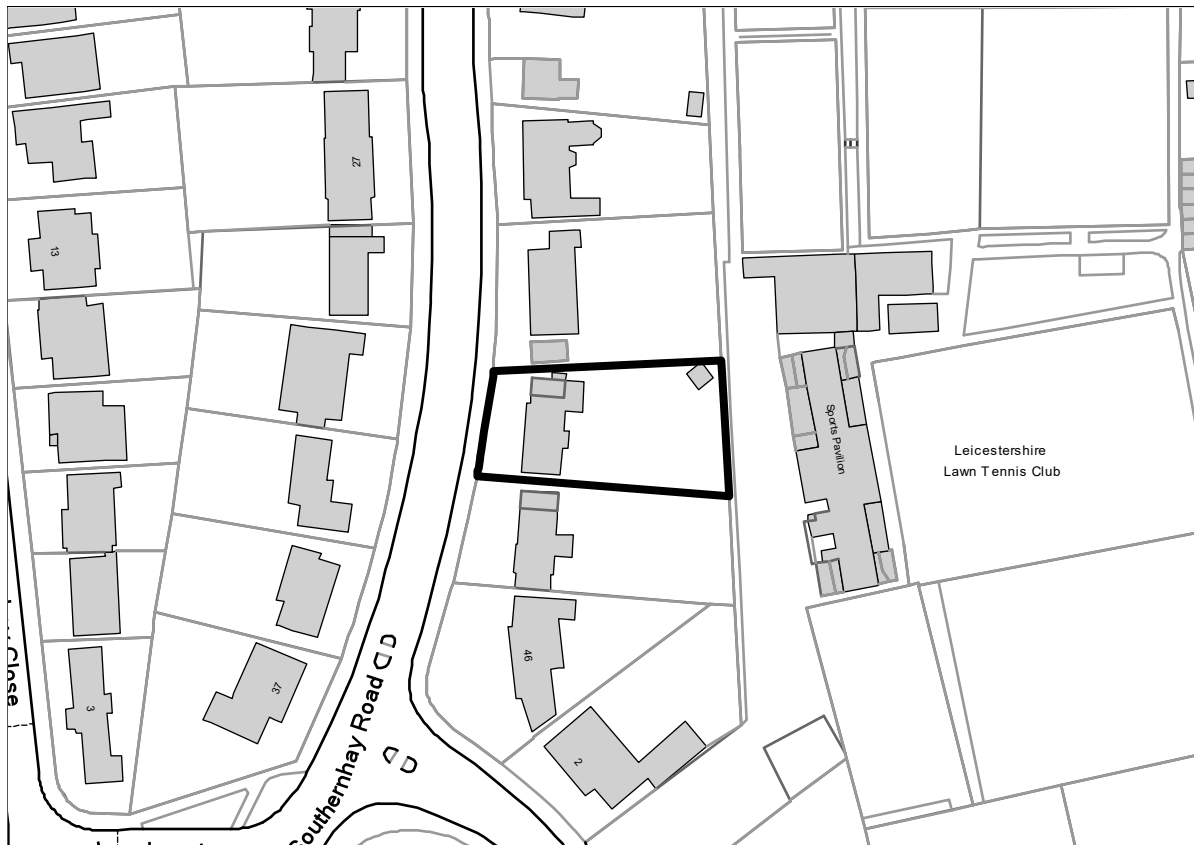


COMMITTEE REPORT

20240386	42 Southernhay Road	
Proposal:	Demolition of existing dwelling; construction of detached two storey dwelling (6 beds) (Class C3)	
Applicant:	Mr Dhillon	
App type:	Operational development - full application	
Status:	Minor development	
Expiry Date:	28 May 2024	
CY1	TEAM: PD	WARD: Knighton



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Summary

- This application has been brought to committee as there has been 8 objections from neighbours, along with objections from Stonegate Conservation Area Society, and Councillor Whittle.

- The main concerns are the demolition of the existing dwelling, increased flooding, loss of biodiversity, impact on the highway and parking, publicity procedure for planning applications, and design.
- The main considerations are design, amenity, biodiversity, flooding, and impact on highway and parking.

The Site

The application relates to a two-storey dwelling in a primarily residential area. With regards to flooding constraints the site is within a critical drainage area and an area with a low risk of surface water flooding. There are also a number of trees on the site.

Background

No relevant formal planning decisions on site

A pre-application application was submitted in line with paragraph 39 of the NPPF.

The Proposal

The application is for the demolition of the existing dwelling and construction of a two-storey dwelling of a similar design in its place. At ground floor level the dwelling would measure w16.8m x d12.8m and include a garage, two living spaces, an open plan kitchen and dining area, utility space and spice kitchen, and a bedroom with ensuite. At first floor level it would measure w11.8m x d9.5m and have four bedrooms (two with ensuite) and a family bathroom. In the loft, facilitated by two dormers, there would be a sixth bedroom and study, with a further bathroom.

The application is accompanied by a floorspace schedule, drainage strategy, ecology survey, and an arboricultural impact assessment.

Policy Considerations

National Planning Policy Framework 2023

Paragraph 2 (Primacy of development plan)

Paragraph 11 (Sustainable development)

Paragraph 39 (Early engagement)

Paragraph 43 (Right information crucial)

Paragraph 56 (Six tests for planning conditions)

Paragraph 60 (Housing supply)

Paragraph 70 (Small housing sites)

Paragraph 108 (Transport impacts and patterns)

Paragraph 114 (Assessing transport issues)

Paragraph 115 (Unacceptable highways impact)
Paragraph 116 (Highways requirements for development)
Paragraph 135 (Good design and amenity)
Paragraph 136 (Trees)
Paragraph 139 (Design decisions)
Paragraph 140 (Clear and accurate plans)
Paragraph 165 (Avoiding flood risk or making development safe)
Paragraph 168 (Flood sequential test)
Paragraph 169 (Flood exception test)
Paragraph 170 (Application of the exception test)
Paragraph 171 (Both elements of the exception test)
Paragraph 173 (Flood risk considerations and SuDS)
Paragraph 180 (Natural environment considerations)
Paragraph 186 (Biodiversity in planning decisions)
Paragraph 188 (Habitats site)

Core Strategy 2014 and Local Plan 2006

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

Further Relevant Documents

Residential Amenity SPD 2008

Leicester City Council Corporate Guidance – Achieving Well Designed Homes 2019

Housing and Economic needs Assessment (HEDNA) Main Report (2017)

Department for Communities and Local Government - Nationally described space standard

Waste Management Guidance (2015)

Leicester City Council – Leicester Street Design Guide 2020

Local Plan Appendix 001 – Vehicle Parking Standards

Residential Car Parking Research for Leicester (2011)

GOV.UK Planning Practice Guidance – Flood Risk and Coastal Change

<https://www.gov.uk/guidance/flood-risk-and-coastal-change>

GOV.UK Planning Practice Guidance – Flood Risk Assessments

<https://www.gov.uk/guidance/flood-risk-assessment-for-planning-applications>

GOV.UK Planning Practice Guidance – FRA Standing Advice

Shopfront Design Guide 2017

Equality Act (2010) – Public sector equality duty

Leicester Biodiversity Action Plan (2021)

Consultations

Lead Local Flood Authority (LLFA) – no objections subject to conditions.

Trees and Woodlands – no objections subject to conditions.

Representations

8 objections have been received from 8 addresses within the local authority boundary with the following concerns:

- There is increased flooding in the area caused by the Tennis Courts behind the site who did not implement sustainable drainage, and this development would create additional flooding problems.
- Drains have been blocked by the applicants.
- A loss of biodiversity on site including loss of trees.
- Number of species have been seen on and around the site.
- Noise and air pollution generated by development.
- Increased parking caused by the development.
- Concerns regarding construction vehicles parking on the street blocking driver's visibility.
- The design of the scheme is unsympathetic and not in keeping with the existing properties.
- The property would have a negative impact on Stoneygate Conservation Area should the conservation area be extended.
- Impact on property prices.
- A lack of publicity for the planning application.
- Demolition of the existing property is not considered to be environmentally friendly.
- Notes a separate matter regarding surfacing issues on Southernhay Road
- Concerns this could cause a precedent for demolition and rebuilding of dwellings in the area.

One additional objection has been received from Stoneygate Conservation Society which notes that the existing property is unremarkable but a distinctive example of its time. They also recognise that appreciation of architecture is cyclic and one day may be regarded as a valuable contribution to architecture. They also had concerns about a precedent being set for the demolition and rebuild of properties.

Lastly one objection has been received from Councillor Whittle who stated they agreed with the submitted objections and had concerns regarding the lack of publicity and the demolition of structurally sound property.

Consideration

Principle of Development

The application is considered acceptable in principle subject to the following considerations below.

Character & Design

Policy CS06 of the Leicester Core Strategy (2014) states that new housing should be provided in accordance with the sustainable development and design principles set out in CS Policies 2 and 3 in order to protect residential amenity and provide quality development.

Policy CS03 of the Leicester Core Strategy (2014) states that high quality, well designed developments that contribute positively to the character and appearance of the local built environment are expected. It goes on to require development to respond positively to the surroundings and to be appropriate to the local setting and context and, at paragraph 1 (first bullet point), to contribute positively to an area's character and appearance in terms of *inter alia* urban form and high-quality architecture. Saved Policy PS10 of the Local Plan (2006) sets out a number of amenity factors to be taken into account when determining planning applications including the visual quality of the area and the ability of the area to assimilate development.

The street is made up of a number of detached dwellings in a variety of styles, materials, and roofscape. This particular property is relatively plain. The proposal would retain a similar massing to the dwelling on the front elevation but with elevated eaves, new fenestration, and a large open supported canopy.

The increased eaves height to the main property would have a negligible impact to its overall scale. The rear dormers are small in size and well sited. The massing to the rear has been increased however the site is large and can assimilate this.

Concerns have been received regarding design, namely one from Stoneygate Conservation Society which notes that the existing property is unremarkable but a distinctive example of its time and one day may be regarded as a valuable contribution to architecture. I do not consider this would be reasonable to restrict development on the basis that in future the property (which lies outside of Stoneygate Conservation area) could one day become a heritage asset when there is no evidence at current that the property holds much architectural value.

The materials would tie in with the existing streetscene, a condition is recommended to ensure this.

I am mindful that the dwelling could be substantially increased by the use of permitted development rights to the detriment of the area, particularly those changes within class B, Part 1, Schedule 2 which could allow changes to the roofscape out of keeping with the proposed dwelling and streetscene. I recommend that this right is removed should planning permission be granted.

I conclude that the proposal would comply with policy CS03 of the Core Strategy (2014), saved policy PS10 of the Local Plan (2006), and NPPF chapter 12 and is acceptable in terms of the character and appearance of the 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.

Number 40 and 44 Southernhay Road are both adjacent to the application site. Each dwelling (excluding the garage) are around 4m away from the boundary shared with the application site. Furthermore number 40 is also situated at a slight angle away from the proposed dwelling at number 42 Southernhay Road. I consider the new dwelling would be a significant distance away from both of these dwellings and so would not result in any loss of outlook and natural light that would be unacceptable to its existing or future occupants.

A number of side windows are proposed however which I recommend be fitted with obscure glazing to prevent overlooking to 40 and 44 Southernhay Road.

I am mindful that the dwelling could be substantially increased by the use of permitted development rights to its detriment, particularly those changes within class A, Part 1, Schedule 2 which could allow changes to the massing which could create an overbearing impact on adjacent properties. I recommend that these rights are removed should planning permission be granted.

I conclude that the proposal would comply with policy CS03 of the Core Strategy (2014), saved policy PS10 of the Local Plan (2006) and paragraph 135 of the NPPF, and is acceptable in terms of amenity to neighbouring properties.

Living Conditions

The dwelling would far exceed NDSS requirements for a six bedroomed dwelling. All principal rooms would have adequate outlook and natural lighting, the garden space would still exceed minimum garden space requirements.

I am mindful that the site could be substantially increased by the use of permitted development rights to its detriment, particularly those changes within classes A and E in Part 1, Schedule 2 which could allow changes to the footprint of the property and add additional large buildings on site which could significantly reduce garden space to the detriment of the proposed occupiers. I recommend that these rights are removed should planning permission be granted.

I conclude that the proposal would comply with policy CS03 of the Core Strategy (2014), saved policy PS10 and H07 of the Local Plan (2006), and paragraph 135 of the NPPF, and is acceptable in terms of living conditions for the existing and proposed 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 AM12 states level of parking for residential development shall be determined in accordance with Appendix 01 referenced above. Little change is proposed to the parking situation and there is still space on site for parking in accordance with appendix 01.

The application site has space for two vehicles on site in line with parking standards. However, I note that in actuality there is space on site for more. Any increased parking is not considered to warrant a detrimental impact on the highway.

Concerns have been raised regarding the possibility of construction vehicles blocking driver visibility and access. Any parking will need to work within the realms of parking and highway legislation. Any illegal on street parking should be reported to the parking enforcement team.

I conclude that the proposal would comply with policy CS14 of the Core Strategy (2014) and would not conflict with saved policy AM12 of the Local Plan (2006), and is acceptable in terms of highway impact and parking.

Drainage

The site is located within Flood Zone 1 and is shown to be at medium risk of surface water flooding. The site is located within a Critical Drainage Area and SuDS are required to limit surface water volumes and discharge rates. A drainage strategy and an indicative drainage layout have been provided, proposing the use of permeable paving to limit surface water discharge to the existing surface water sewer. Further details are required on the proposed SuDS measures and the proposed surface water drainage, as detailed below. The LLFA consider these details can be submitted as conditions which I consider to be acceptable.

- Evidence confirming 50% betterment (A.6)
- No further information required
- Updated Drainage Strategy
- Confirm the drainage measures that will prevent surface water flowing onto the public highway
- Proposed Surface Water Discharge Rates
- Updated Drainage Layout Plan
- Detailed drainage calculations
- Further SuDS Recommendations
- If applicable, written justification confirming why SuDS are not to be integrated
- SuDS: Product Specification and/or Design Details
- If required, updated SuDS: Maintenance plan
- If proposed, details of proposed flood protection and/or resilience measures

Concerns have been raised regarding the drainage issues around the tennis court. Nevertheless, should this development go ahead the details submitted will allow reduction of water run of onsite of between 30-50% which will further improve the existing drainage situation on site and in the immediate vicinity.

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

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.

Waste storage is shown on plans however and considered to be acceptable.

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

Nature conservation/Trees/landscaping

Saved Policy UD06 states that *'planning permission will not be granted for any development that impinges directly or indirectly, upon landscape features that have amenity value including areas of woodland, trees, planting or site topography whether they are within or outside the site unless: a) the removal of the landscape feature would be in the interests of good landscape maintenance; or b) the desirability of the proposed development outweighs the amenity value of the landscape feature'*.

Policy CS17 of the 2014 Core Strategy states that development shall maintain, enhance, and/or strengthen connections for wildlife, by creation of new habitats, both within and beyond the identified biodiversity network. In considering the potential impact of development on wildlife, the Council will require ecological surveys and assessments of the site to be undertaken where appropriate to establish the presence or absence of protected species or habitats of particular value prior to any development taking place.

The Preliminary Roost Assessment & Protected Species Walkover report (Gritstone Ecology, February 2024) confirms 'No indications of use by bats were present during the survey, either internally, or Externally' and the 'Trees have negligible suitability for use by roosting bats'. Therefore, further bat surveys are not required. I recommend the recommendations in the report should be secure via a condition; this includes the provision of bat and bird boxes (1 x Sparrow terrace nest boxes, 1 x bird nest box 1 x bat box (specifications provided in section 7 of the report). The report states "All accessible areas of the house and garden were inspected in detail"; there is no mention in the report of any other species or habitats which would present a constraint to the development. Therefore, further surveys or mitigation is not required.

Mandatory Biodiversity Net Gain does not apply to this development as it was exempt from BNG at the time the planning application was submitted (temporary exemption small

sites submitted before 02/04/2024). However, the National Planning Policy Framework still puts emphasis on providing biodiversity net gain on site. There are two trees (a field maple and an apple tree graded as low value) required to be removed to accommodate the proposal, but I consider that mitigation for this can be submitted via a condition under a Landscape and Ecological Management Plan should the application be approved. The following replacement trees are considered to be well suited to this area and site and it is recommended that the applicant takes this into account when submitting a LEMP:

- *Cercis siliquastrum*,
- *Crataegus x lavalleyi*,
- *Malus sylvestris*, (or *Malus Royalty* for a purple leaved form),
- *Prunus subhirtella* 'Autumnalis' (winter flowering cherries) or
- *Sorbus sargentiana* (good for autumn colour)

Retained trees are shown on site close to the proposed development. Mitigation measures to ensure these are not damaged by the scheme are proposed. The tree officer has no objections providing that these mitigations are controlled via a condition which I consider to be acceptable.

I conclude that the proposal would comply saved policy UD06 of the Local Plan (2006), and 2014 Core Strategy policy CS17, and is acceptable in terms of the tree protection and biodiversity.

Other matters

Regarding points raised by the objections, the application was publicised in accordance with statutory publicity requirements.

There are concerns about noise pollution and air pollution generated from the building of the dwelling. Whilst construction impacts can affect surrounding residents, this would be a temporary situation and is unavoidable during the development process. Given the scale of the scheme, it would not be reasonable to attach a condition restricting the hours of construction.

Concerns have been raised regarding the demolition of the existing dwelling and this not consistent with environmental policy objectives. Whilst loss of embodied carbon in the existing building might be regrettable, the new building would have to comply with much more stringent energy efficiency requirements of modern Building Regulations and therefore be consistent with applicable planning policy in terms of sustainability.

I note that extension works could have been carried out without a full demolition, however

the internal and external works are as such that this would have resulted in partial retention and would not secure the energy efficiency benefits of a new build proposal. As such I do not consider the demolition to be unreasonable in this instance. I also note that as this is a full demolition and rebuild, the applicant is subject to biodiversity diversity enhancement, along with sustainable urban drainage requirements which would have been considered too onerous to require for extensions to a dwelling. As such biodiversity and drainage will be increased bringing further on site bringing benefits to the environment.

Regarding precedents for demolition and rebuild, each application is assessed on a case by case basis and on its own merits. There is no special presumption or consideration to prevent demolition of properties under current planning legislation on the basis of loss of embodied carbon. Outside of conservation areas there is no policy presumption for retention of existing properties of no particular heritage value.

With regards to existing blocked drainage, this is not a planning consideration and is a matter to be resolved between the affected landowners.

Impact of property prices, or existing surfacing issues on Southernhay Road are not material planning considerations.

Concerns have been raised that the development would have a negative impact on Stoneygate Conservation Area should the conservation area be extended. No presumption can be made that the conservation area is to be extended to include 42 Southernhay Road and withholding planning permission on such grounds would be wholly inappropriate.

All foundations, gutters and downpipes should be wholly within the application site. No permission is granted for development on, above or under any adjacent property outside the ownership of the applicant. The applicant may need to enter into a Party Wall Agreement with regard to adjacent impacts with those affected and I recommend this is attached as a note to applicant should the application be approved.

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. Prior to works above ground level, the proposed bricks to be used on all external elevations shall be submitted to and approved by the City Council as local planning authority. (In the interests of visual amenity, and in accordance with Core Strategy policy CS03).
3. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to any dwelling house of types specified in (amend as necessary e.g. Part 1, Classes A, B, and E of) Schedule 2 to that Order shall be carried out without express planning permission having previously been obtained. (Given the nature of the site, the form of development is such that work of these types may be visually unacceptable or lead to an unacceptable loss of amenity to occupiers of neighbouring properties; and in accordance with policy PS10 of the City of Leicester Local Plan).
4. Before the occupation of the proposed extension new windows facing 40 and 44 Southernhay Road shall be fitted with sealed obscure glazing to Pilkington level 4 or 5 (or equivalent) (with the exception of top opening light) and retained as such. (In the interests of the amenity of occupiers of 40 and 44 Southernhay Road and in accordance with policy PS10 of the City of Leicester Local Plan).
5. Prior to the commencement of development full details of the Sustainable Drainage System (SuDS) together with implementation, long term maintenance and management of the system shall be submitted to and approved by the local planning authority. No flat/property shall be occupied until the system has been implemented. It shall thereafter be managed and maintained in accordance with the approved details. Those details shall include: (i) full design details, (ii) a timetable for its implementation, and (iii) a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the system throughout its lifetime. (To reduce surface water runoff and to secure other related benefits in accordance with policy CS02 of the Core Strategy). (To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).

6. Prior to the commencement of development details of drainage, shall be submitted to and approved by the local planning authority. No flat/property shall be occupied until the drainage has been installed in accordance with the approved details. It shall be retained and maintained thereafter. (To ensure appropriate drainage is installed in accordance with policy CS02 of the Core Strategy). (To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).
7. Prior to any works above ground level, a detailed landscape and ecological management plan (LEMP) showing the treatment and maintenance of all parts of the site which will remain unbuilt upon shall be submitted to and agreed in writing with the City Council as local planning authority. This scheme shall include details of: (i) the position and spread of all existing trees, shrubs and hedges to be retained or removed; (ii) new tree and shrub planting, including plant type, size, quantities and locations; (iii) means of planting, staking, and tying of trees, including tree guards; (iv) other surface treatments; (v) fencing and boundary treatments (vi) any changes in levels; (vii) the position and depth of service and/or drainage runs (which may affect tree roots), (viii) a detailed plan of the biodiversity enhancements on the site including a management scheme to protect habitat during site preparation and post-construction, and (ix) specifications of 1 x Sparrow terrace nest boxes, 1 x bird nest box 1 x bat box, and their locations in the application site. The approved LEMP shall contain details on the after-care and maintenance of all soft landscaped areas and be carried out within one year of completion of the development. For a period of not less than 30 years from the date of planting, the applicant or owners of the land shall maintain all planted material. This material shall be replaced if it dies, is removed or becomes seriously diseased. The replacement planting shall be completed in the next planting season in accordance with the approved landscaping scheme. (In the interests of amenity, and in accordance with policy UD06 of the City of Leicester Local Plan and Core Strategy policy CS03, and CS17 Biodiversity).
8. The development shall be carried out in accordance with the recommendation outlined in the tree protection plan received by the city council as local planning authority on the 26th February. (In the interest of biodiversity and in accordance with Core Strategy policy CS17, saved policy UD06 of the 2006 Local Plan and paragraph 136 of the National Planning Policy Framework 2023).
9. Notwithstanding condition 7, development shall be carried out in accordance with the following approved plans:
2024/02/33, pages 1 to 12 received 26 February 2024

(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 2023 is considered to be a positive outcome of these discussions.
2. Any development where surface water runoff will be managed through discharge into a public sewer will require approval from Severn Trent Water (STW). It is recommended that STW are consulted regarding the proposed connection. An application for connection will need to be completed and submitted to STW once planning approval is granted.
Where indirect drainage connections are proposed (within private land) as part of a development, the two following steps must be completed:
 - Approval from Severn Trent Water (STW) must be obtained for an indirect connection.
 - Permission must be obtained from the affected Landowner(s) for any works to take place in their land and for the connection to be made into their private sewer network. It is recommended that legal advice is sought to secure an appropriate agreement. Any disputes regarding this are considered neighbour disputes.
3. All foundations, gutters and downpipes should be wholly within the application site. No permission is granted for development on, above or under any adjacent property outside the ownership of the applicant. The applicant may need to enter into a Party Wall Agreement.
4. Condition 3 refers to alterations/extensions that you are normally allowed to carry out to houses without planning permission. In this case the City Council wants to be able to control any alterations and extensions to preserve the appearance of the property or protect the amenities of neighbouring properties. You should submit a pre-application enquiry on our website if you are considering such works.

Policies relating to this recommendation

- 2006_AM02 Planning permission will only be granted where the needs of cyclists have been incorporated into the design and new or improved cycling routes should link directly and safely to key destinations.
- 2006_AM12 Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01.
- 2006_PS10 Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
- 2014_CS02 Development must mitigate and adapt to climate change and reduce greenhouse gas emissions. The policy sets out principles which provide the climate change policy context for the City.
- 2014_CS03 The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'.
- 2014_CS06 The policy sets out measures to ensure that the overall housing requirements for the City can be met; and to ensure that new housing meets the needs of City residents.
- 2014_CS08 Neighbourhoods should be sustainable places that people choose to live and work in and where everyday facilities are available to local people. The policy sets out requirements for various neighbourhood areas in the City.
- 2014_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.