



**PLANS COMMITTEE**

This meeting will be recorded and the sound recording subsequently made available via the Council's website: [charnwood.gov.uk/pages/committees](http://charnwood.gov.uk/pages/committees)

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To: Councillors Bebbington, Bentley, Campsall, Forrest (Vice-Chair), Fryer, Gerrard, Grimley, Lowe, Page (Chair), Seaton, Snartt, Tassell and Tillotson  
(For attention)

All other members of the Council  
(For information)

You are requested to attend the meeting of the Plans Committee to be held in Woodgate Chambers on Thursday, 4th April 2019 at 5.00 pm for the following business.

Chief Executive

Southfields  
Loughborough

27th March 2019

**AGENDA**

1. APOLOGIES
2. MINUTES OF PREVIOUS MEETING 3 - 6

The Committee is asked to confirm as a correct record the minutes of the meeting held on 7th March 2019.

3. QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

No questions were submitted.

4. DISCLOSURES OF PECUNIARY AND PERSONAL INTERESTS

5. PLANNING APPLICATIONS

7 - 62

The list of planning applications to be considered at the meeting and reports of the Head of Planning and Regeneration are attached.

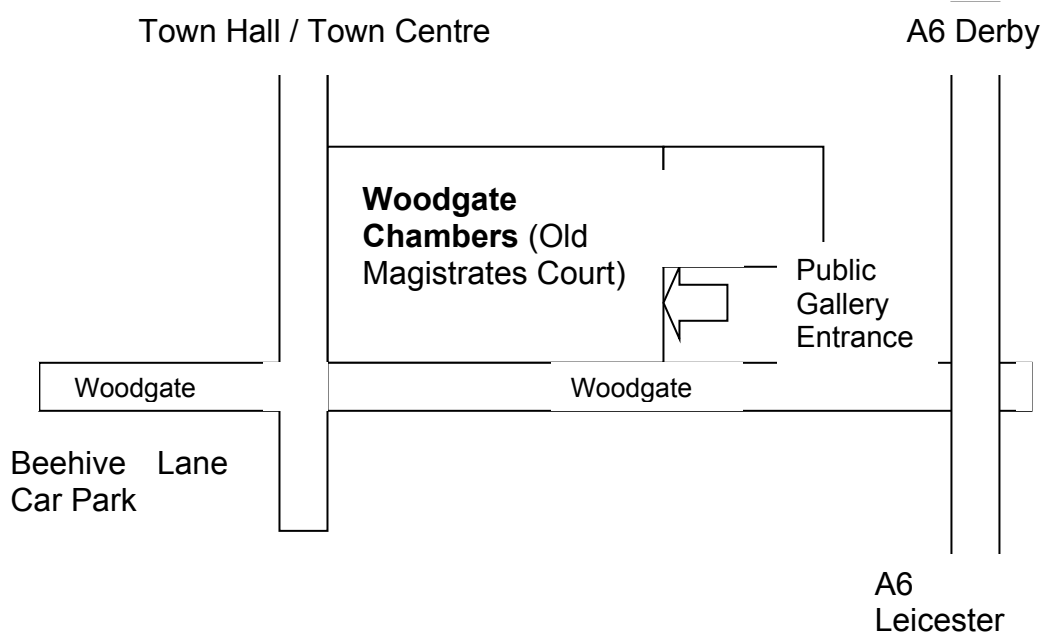
6. LIST OF APPLICATIONS DETERMINED UNDER DELEGATED POWERS

63 - 65

A list of applications determined under powers delegated to officers for the period from 25th February 2019 to 22nd March 2019 is attached.

### WHERE TO FIND WOODGATE CHAMBERS

Woodgate Chambers  
70 Woodgate  
Loughborough  
Leicestershire  
LE11 2TZ



## PLANS COMMITTEE 7TH MARCH 2019

PRESENT: The Vice-chair (Councillor Forrest)  
Councillors Bebbington, Bentley, Campsall, Fryer,  
Gerrard, Lowe, Savage, Seaton, Snartt and  
Tassell

Head of Planning and Regeneration  
Principal Planning Officer (PR)  
Principal Planning Officer (RN)  
Team Leader Natural & Built Environment  
Principal Solicitor (KH)  
Democratic Services Officer (MH)

APOLOGIES: Councillors Grimley, Page and Tillotson

The Vice-chair stated that the meeting would be recorded and the sound recording subsequently made available via the Council's website. He also advised that, under the Openness of Local Government Bodies Regulations 2014, other people may film, record, tweet or blog from this meeting, and the use of any such images or sound recordings was not under the Council's control.

### 48. MINUTES OF PREVIOUS MEETING

The minutes of the meeting held on 31st January 2019 were confirmed as a correct record and signed.

### 49. QUESTIONS UNDER COMMITTEE PROCEDURE 12.8

No questions were submitted.

### 50. DISCLOSURES OF PECUNIARY AND PERSONAL INTERESTS

The Vice-chair reminded the Committee of the requirements of the Code of Conduct and the Planning Code of Good Practice, particularly in relation to predetermination and disclosing contacts with developers and objectors.

The following disclosures were made:

- (i) by Councillor Campsall – a disclosure under the Planning Code of Good Practice in respect of application P/18/2067/2 that he did not have an open mind regarding the application;
- (ii) by Councillor Forrest – a disclosure under the Planning Code of Good Practice in respect of application P/18/1401/2 that she had spoken in her capacity as ward councillor on an earlier application for that site; however the application before the Committee was a new application and she considered that she had an open mind;

- (iii) by Councillor Fryer – a personal interest in application P/18/1379/2 as the County Councillor for the area; she had an open mind regarding the application
- (iv) by Councillor Snartt – a personal interest leading to bias in application P/18/2067/2 as he had a meeting with the owner of the land and a planning officer regarding the application.

## 51. PLANNING APPLICATIONS

Reports of the Head of Planning and Regeneration, setting out applications for planning permission, were submitted (items 1 to 3 in the appendix to the agenda filed with these minutes). Additional Items reports in respect of revisions to the National Planning Policy Framework and the Government's Planning Practice Guidance, and application P/18/2067/2, including an update regarding the content of the proposed Section 106 legal agreement, were also submitted (also filed with these minutes).

A late request to speak had been submitted by Mountsorrel Parish Council. The Chair put the request to the Committee, which agreed that a representative of the Parish Council could speak on item P/18/1379/2.

In accordance with the decision above and the procedure for public speaking at meetings, the following objector, applicants or their representatives and representative of a parish council attended the meeting and expressed their views:

- (i) Mr L. Wiggins (agent) and Mr S. Haywood (on behalf of Mountsorrel Parish Council) in respect of application P/18/1379/2;
- (ii) Ms P. Pullan (objector) and Mr A. Hardy (agent) in respect of application P/18/1401/2;
- (iii) Ms L. Sutton and Mr R. Kent (objectors) and Ms F. Turner (on behalf of the applicant) in respect of application P/18/2067/2.

In accordance with the procedure for Borough Councillors speaking at Plans Committee meetings, the following Councillors attended the meeting and expressed their views:

- (i) Councillor Hunt in respect of application P/18/1379/2;
- (ii) Councillor Draycott in respect of application P/18/2067/2.

In respect of application P/18/1401/2 (5 Cumberland Road, Loughborough), officers stated that there was an error in the published report. It was not correct that the property of No.5 Cumberland Road would still have a comparable garden to other properties in the area after the development was completed.

Councillor Gerrard briefly left the meeting during the consideration of application P/18/1401/2 (5 Cumberland Road, Loughborough) and as a result did not participate in the vote on the proposal to grant planning permission.

In respect of application P/18/1401/2 (5 Cumberland Road, Loughborough), Councillor Forrest requested that her abstention on the proposal to grant planning permission be recorded in the minutes.

Having made disclosures, Councillor Campsall and Councillor Snartt withdrew from the meeting during the consideration of application P/18/2067/2 (Land to the West of Aumberry Gap, Loughborough). Councillor Campsall and Councillor Snartt also left for the remainder of the meeting.

## RESOLVED

1. that, in respect of application P/18/1379/2 (Mr M. Singh, Land adjacent Granite Way, Mountsorrel), planning permission be refused, against the recommendation of the Head of Planning and Regeneration, for the following reasons:
  - the proposed development would be an incongruous feature in the street scene, particularly in relation to its design, scale, mass and density, contrary to Policy CS2 of the Charnwood Local Plan Core Strategy and saved Policy EV/1 of the Borough of Charnwood Local Plan and the submitted plans provided no details of facilities for waste and recycling bins.;
  - the proposed development, by virtue of its height and proximity, would have a detrimental impact on the amenity of the occupiers of 1 Betty Henser's Lane;
2. that, in respect of application P/18/1401/2 (Mr A. Philpott, 5 Cumberland Road, Loughborough), planning permission be granted subject to the conditions, reasons and advice notes set out in the report of the Head of Planning and Regeneration and to amendments to condition 7 so that information regarding the following is also provided:
  - details of the siting, appearance and design of bird nest brick/boxes, particularly including swift boxes/bricks, to be incorporated into the development;
  - details of the siting, appearance, design and screening arrangements of refuse and recycling bin storage facilities to be provided on the site;
3. that, in respect of application P/18/2067/2 (Future Generation Ltd, Land to the West of Aumberry Gap, Loughborough):
  - (a) authority be given to the Head of Planning and Regeneration and the Head of Strategic Support to enter into a legal agreement under Section 106 of the Town and Country Planning Act 1990, on terms to be finalised by them, to secure the following infrastructure improvements and management agreements:
    - Healthcare – £35,948 to increase the capacity of local health care facilities
    - Assured Shorthold Tenancy Agreements (ASTs) and no car policy and management structure
    - Community Facilities – provision of ground floor accommodation at nominal rental for local community groups

- Town Centre Parks – £5,778
- Town Centre Public Realm (including play equipment for young people) – £49,329
- Processing of Traffic Regulation Orders – £7,500
- Monitoring fee for STARS (Sustainable Travel Accreditation and Recognition Scheme) – £6,000
- Student Street Support Scheme – increase capacity of street patrol staff by contribution of £10,000 per year in perpetuity;

(b) subject to the completion of the Section 106 legal agreement referred to in resolution 3A above, planning permission be granted subject to the conditions, reasons and advice notes set out in the report of the Head of Planning and Regeneration and to the following amendments to condition 5:

- the hours of construction plant operation on Monday to Friday be reduced to 08.00 to 17.00;
- the hours for collection and deliveries to the site during construction be reduced to 09.00 to 16.00 on Monday to Friday and 09.00 to 13.00 on Saturday, with no collections or deliveries on Sundays and Bank or Public Holidays.

#### 52. LIST OF APPLICATIONS DETERMINED UNDER DELEGATED POWERS

A list of applications determined under powers delegated to officers for the period from 21st January 2019 to 22nd February 2019 was submitted (item 6 on the agenda filed with these minutes).

#### 53. URGENT DECISION - TREE PRESERVATION ORDER

A report of the Head of the Strategic Support, informing the Committee of an urgent decision taken by the Chief Executive under Section 8.2 of the Council's Constitution to authorise the making of a Tree Preservation Order, was submitted (item 7 on the agenda filed with these minutes).

#### NOTES:

1. No reference may be made to these minutes at the Council meeting on 24th June 2019 unless notice to that effect is given to the Democratic Services Manager by five members of the Council by noon on the fifth working day following publication of these minutes.
2. These minutes are subject to confirmation as a correct record at the next meeting of the Plans Committee.

## Charnwood Borough Council

### Plans Committee – 4th April 2019

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2	P/18/2469/2	Mr Mick Burke 7 Derwent Drive Loughborough  Two storey extension to side and rear and single storey extension to rear of dwelling	Grant Conditionally	30
3	P/18/2482/2	Ms A Bailey 133 Knightthorpe Road Loughborough  Change of use from House in Multiple Occupation (Use Class C4) to a large House in Multiple Occupation (sui generis)	Grant Conditionally	43
4	E/16/0434	Wreake Valley Craftsmen Ltd 25 Rearsby Road Thrussington  Breach of condition 11 attached to planning permission P/15/2236/2	Take no further action	54

## Item No. 1

### Application Reference Number P/18/0888/2

<b>Application Type:</b>	Full	<b>Date Valid:</b>	31 May 2018
<b>Applicant:</b>	William Davis		
<b>Proposal:</b>	Erection of 24 dwellings with access, garages, parking, and associated works		
<b>Location:</b>	Land off Highland Drive and Knox Road, Loughborough Leicestershire		
<b>Parish:</b>	Loughborough	<b>Ward:</b>	Loughborough Shelthorpe
<b>Case Officer:</b>	Reddy Nallamilli	<b>Tel No:</b>	01509 633745

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### Reason for Report Going to Plans Committee

This application has been brought to Plans Committee by the Head of Planning and Regeneration as the application has attracted significant public interest.

### Background

In 2002, following the completion of a S106 legal agreement, outline planning permission was granted for residential development incorporating open space, a local centre, linear park and the provision of road link to the Epinal Way Extension. With regard to the provision of the local centre, the approved outline permission contained an illustrative layout masterplan which indicated how the centre could be developed as a community hub. The layout plan indicated a place of worship, a community centre, health centre and two separate retail areas with flats above within the local centre. The S106 legal agreement set aside 1 hectare of land for the purposes of a local centre for shopping, community facilities and a place of worship. Within that planning obligation:

- 0.5 hectares was to be reserved for shopping and other commercial users;
- 0.38 hectares would be reserved for community health developments including a place of worship, doctor, dental surgery and other such health and welfare facilities and community uses;
- 0.2 hectares would be reserved for a community centre.

It was anticipated that the allocated 0.5 hectare 'commercial hub' would deliver the following:

- A local convenience store/small food retail outlets up to 380sq.m;
- Mixed retail outlets up to 140sq.m and
- Residential accommodation of up to 194sq.m.

Members should note that the applicant has negotiated with a Community Trust to lease the area of land, sited to the north of the application, from William Davis to deliver the community building. Work on the provision of a community building has



commenced. The application before Plans Committee now relates to the remaining parcel of land which was set aside to provide for the local centre.

### **Description of the Site**

The application site is located in the middle of the Grange Park Estate and is devoid of any soft landscaping or significant ecological interest. The development site currently forms undeveloped land which has been segregated by fencing from the surrounding residential development and an adjacent designated open space/play area on its eastern boundary. The surrounding area forms part of a recently developed modern residential scheme constructed over a number of years. The development site itself would comprise of two individual sites located on either side of Knox Road at its junction with Highland Drive. It should be noted that the development proposed on the eastern side of Knox Road does retain a community building on its northern boundary for which work has commenced and an open space/play area on its eastern edge.

### **Description of the Proposal**

The application has been amended twice since its submission and the proposal now before members seeks full planning permission for 24 dwellings. The applicant proposes to develop land within Grange Park which is identified in the extant planning permission as the location of a local centre and replace these facilities with the 24 residential dwelling units.

The proposed dwellings would be situated on two separate sites on either side of Knox Road. The eastern side of the site would contain 12 two storey dwelling units and a detached bungalow, which would be sited to face towards the open space. The remaining units would front along Knox Road and Highland Drive. A new vehicular access would be created off Highland Drive to serve the affordable units, which would be grouped together. The western side would contain 11 two storey dwellings units. A new vehicular access would be created off Highland Drive to serve 3 of these units

The proposed dwelling houses would consist of a mixture of 2, 3 and 4 bedroomed dwellings. Each property would have a minimum of 2 parking spaces provided, some of these spaces would be provided within garages, others on the forecourt. Separate binstore facilities would be provided for each of the dwellings.

A series of amendments to improve the layout and design and secure the appropriate mix of affordable housing have been secured during the course of the planning application. This has also resulted in the numbers of units being reduced from 30 dwelling houses to 24 dwelling houses.

Seven of these units, including the bungalow, would be affordable housing units.

### **Development Plan Policies**

The planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

## Charnwood Local Plan Core Strategy 2011 – 2028 (Adopted 9th November 2015)

Policy CS1 – Development Strategy for Charnwood sets out a settlement hierarchy for the Borough and the criteria for considering proposals within those settlements.

Policy CS2 – High Quality Design requires developments to respect and enhance the character of the area, having regard to scale, massing, height, landscape, layout, materials and access and protect the amenity of people.

Policy CS3 – Strategic Housing Needs sets out affordable housing requirements and an appropriate mix of types, tenures and sizes of home.

Policy CS15 – Open Spaces, Sports and Recreation requires new development to meet the standards set out in our Open Space Strategy.

Policy CS16 – Sustainable Construction and Energy seeks to adapt to and mitigate against the effects of climate change by encouraging sustainable design and construction.

Policy CS17 – Sustainable Transport seeks to achieve a 6% shift from travel by private car to walking, cycling and public transport by requiring major developments to provide walking, cycling and public transport access to key facilities and services.

Policy CS24 – Delivering Infrastructure seeks development to contribute to the reasonable costs of on site, and where appropriate off site, infrastructure through the use of legal agreements.

Policy CS25 – Presumption in Favour of Sustainable Development reinforces the positive approach the Council will take in respect of sustainable development.

## Saved Policies Borough of Charnwood Local Plan (adopted 12th January 2004)

Policy EV/1 – Design seeks to ensure a high standard of design and developments which respect the character of the area and protect amenities.

Policy ST/2 – Settlement Boundary seeks to restrict development to within the existing settlement limits to ensure that development needs can be met without harm to the countryside or other rural interests.

Policy TR/18 – Parking Provision in New Development seeks to set the maximum standards by which development should provide for off street car parking.

Policy EV/31 – Sewage Disposal Capacity advises on sewage capacity facility matters and that appropriate facilities will be provided.

Policy CA/10 – New Local Centres identifies broad locations for the provision of new local shopping centres in association with developments but their precise location will be determined following the preparation of detailed site layouts.

## **Other Material Considerations**

### National Planning Policy Framework (NPPF revised February 2019)

The Framework confirms the presumption in favour of sustainable development and that it needs to be pursued in a positive way. Planning decisions are required to play an active role in guiding development towards sustainable development, but in doing so they are also required to also take local circumstances into account, to reflect the character, needs and opportunities of each area. With regard to the decision making process, Paragraph 11 of the NPPF indicates that plans and decisions should apply a presumption in favour of sustainable development. It adds that for decision making, this means approving development proposals that accord with an up-to-date development plan without delay. Amongst other things, the revised framework strengthens design policy particularly to aid housing delivery, gives emphasis on applicants having to justify the need for application stage viability assessment and clarity that the decision taker should decide the weight to be given to such an assessment having regard to all the circumstances including changes to site circumstances. Finally it gives expanded definition of affordable housing and an expectation that at least 10% of homes to be available for affordable home ownership.

### Planning Practice Guide

This sets out relevant guidance on aspects of development supporting the revised NPPF.

### Housing and Economic Development Needs Assessment (2017)

HEDNA provides an up to date evidence base of local housing needs including an objectively assessed housing need figure to 2036 based on forecasts and an assessment of the recommended housing mix based on demographic changes over the same period. The objectively assessed need figure remains untested in a plan making environment and has been replaced following the introduction of the standard housing methodology. It cannot therefore be used to inform housing need. However, the housing mix evidence in HEDNA can be accorded significant weight as it reflects known demographic changes. In summary it provides evidence to support judgements on the mix of types, tenure and size of homes at district level under Policy CS 3 of the Core Strategy.

### Housing Supplementary Planning Document (Revised December 2017)

The Supplementary Planning Document aims to meet housing needs in the Borough by securing amongst other things an appropriate mix of types, tenures and sizes of affordable homes to meet identified needs.

### Leading in Design Supplementary Planning Document (February 2006)

This encourages and provides guidance on achieving high quality design in new development. It indicates that the Council will approach its judgments on the design of new development against the following main principles:

- Places for People – Successful developments contribute to the creation of distinctive places that provide a choice of housing and complementary facilities and activities nearby. Good design promotes diversity and choice.
- Accessible Places – Successful developments are easy to get to and move through, with short, direct public routes overlooked by frontages.
- Safe Places – Successful developments are safe and attractive with a clear division between public and private space. Good design promotes the continuity of street frontages and the enclosure of space.
- Sustainable Places – Successful developments are able to adapt to improve their long-term viability and are built to cause the least possible harm to the environment.
- Distinctive Places – Successful developments respond to their context.

#### S106 Developer Contributions Supplementary Planning Document (adopted 2007)

The Supplementary Planning Document sets out the circumstances which might lead to the need for a contribution to the provision of infrastructure, community services or other facilities provided it can be demonstrated that they are specifically related to the proposed development.

#### Community Infrastructure Levy Regulations (CIL), 2010 (as amended)

Regulation 122 prescribes the limitations on the use of planning obligations. Accordingly it is unlawful for a planning obligation to be a reason for granting planning permission, for a development that does not meet the relevant tests:

- It is necessary to make the development acceptable in planning terms.
- It is directly related to the development
- It is fairly and reasonably related in scale and kind to the development.

#### **Relevant Planning History**

P/00/2078/2 - Site for residential development with recreational open space, local centre, linear park and road link to proposed Epinal Way extension (48ha) – Granted 02/05/2002

P/09/0233/2 - Local centre comprising flats over shops, place of worship, health centre, community hall and associated parking - Granted 19/06/2009 (Reserved Matters)

P/17/2344/2 - Proposals for new community hall and associated parking, landscaping and community garden as part of the Grange Park Local Centre previously secured under planning permission P/00/2078/2 and reserved matters approval P/09/0233/2 - Granted March 2018

P/18/0914/2 Application to vary S106 and remove local centre obligations at Grange Park. Awaiting withdrawal - subject to planning permission being granted for this application.

P/18/1792/2 - Section 73 application for variation of condition 10 (hours of operation) attached to planning application Ref P/17/2344/2 for erection of new community hall and associated parking, landscaping and community garden. - Granted Nov 2018

### **Other Relevant History**

P/17/0942/2 – Planning permission granted 7 December 2017 for erection of Aldi food retail store (Class A1), coffee shop with drive through and take away facility (Class A3/A5), three retail units (Class A1/A2/A3) with associated access, car parking and landscaping. Land at Allendale Road.

P/17/2599/2 Planning permission granted 5 April 2018 for erection of Aldi food retail store (Class A1), coffee shop with drive through and take away facility (Class A3/A5), three retail units (Class A1/A2/A3/A5/D1) with associated access, car parking and landscaping. (amendment to P/17/0942/2 to allow the creation of a larger retail units and to include a vet practice). Land to the West of Allendale Road and to the South of Ling Road.

### **Responses of Statutory Consultees**

There have three phases of consultation, relating to the original application and two subsequent amendments to it.

*Responses received in connection with the original submission relating to 30 dwellings units*

#### Charnwood Borough Council Environmental Health

Advise they have no objections.

#### Charnwood Borough Council Housing Strategy

Advised the proposed layout for affordable housing is not acceptable and the car parking may lead to future management problems.

#### NHS West Leicestershire Clinical Commissioning Group

Request a financial contribution of £175,554 towards additional facilities at the Outwoods Medical Centre, Beaumont Road.

#### Severn Trent (Asset Protection Waste Water East)

Raise no objection regarding sewage subject to condition requiring details of drainage plans and foul water sewage to be submitted and informative added.

#### Leicestershire County Council (Minerals)

Raised no objections.

*Responses received in connection with the amended submission for 26 units*

Charnwood Borough Council (Open Spaces)

Advise adequate buffer areas should be provided between the proposed play areas and the nearest dwellings and site contributions would be required. Request off site contributions to open space, allotments and improvement to play area. Recommend the following financial contributions are sought per dwelling:

- Parks – £158.21
- Natural open space - £327.34
- Facilities for young people – £937.62
- Outdoor Sport Facilities – £1386.81
- Allotments - £114.06.

Leicestershire County Council (Family Services)

Request a financial contribution of £77,582.58 towards secondary school provision at Woodbrook Vale School and £16,621.99 towards Post 16 Education requirements at Rawlins Academy.

Leicestershire County Council (Library Services)

Request that a financial contribution of £780 is submitted towards Quorn Library.

Leicestershire County Council (Waste Management)

Advise that no Civic Amenity financial contribution would be required, as there is existing capacity within the existing facilities to accommodate the demand created by the development at Loughborough.

Leicestershire County Council (Lead Local Flood Authority)

Advise that the proposed development is located in flood zone 1 with little risk of surface water flooding and raise no objections are subject to conditions being attached requiring further details to be submitted if permission were to be granted.

Leicestershire Police (Designing out Crime Officer)

Advise that the scheme should be designed to minimize opportunities for crime.

NHS West Leicestershire Clinical Commissioning Group

- Make a general observation that the NHS has not received any financial contribution through S106 for any of the dwellings on the Grange Park development as the development was considered prior to financial contributions being sought by the Health Authority. The developer will be required to pay a financial contribution of £4,681.44 (£195.06 x 24 dwellings) towards improving existing to health facilities.

### Leicestershire County Council (Highway Authority)

Advise that no objections are raised to the revised submission subject to conditions. Request further changes to the layout and contributions travel packs and bus passes.

*Responses received in connection with the latest revised scheme for 24 dwelling units*

### Charnwood Borough Council (Open Spaces)

Request a financial contribution of £77,315.53 towards to open space, parks, allotments and improvement to play area.

- Parks - £3,797.04 to be spent on Allendale Road Open Space
- Natural & Semi Natural Open Space - £5,455.86 to be spent on Grange Park Linear Park
- Amenity Green Space - £2,843.30 to be spent on Allendale Rd Open Space
- Provision for Children - £6,695.40 to be spent on Allendale Rd Open Space
- Provision for young Children - £22,502.79 to be spent on Allendale Rd Open Space
- Outdoor Sports facilities – £33,283.64 to be spent on nearby sports facilities
- Allotments - £2,737.50 to create new site or additional plots.

### Leicestershire County Council (Highway Authority)

Advise that no objections are raised to the revised submission subject to conditions and contributions towards travel packs and bus passes.

### Charnwood Borough Council Housing Strategy

Advise the revised layout and 7 units of affordable housing are acceptable, which includes a bungalow. The tenure mix for the affordable housing – 2 x 3 bed shared ownership; 4 x 2 bed rent and 1 x 2 bed bungalow for rent is considered acceptable.

### **Other comments received**

#### Ward Councillor Hayes

Cllr Hayes considers the site could be developed for bungalows and a retail facility should be retained.

#### Haddon Way Residents' Association

- Would like to see adequate parking facilities provided;
- Bus services should be provided within the estate;
- Parking courts should be discouraged;
- The play areas should be provided prior to the housing commencing;
- Affordable housing should be redistributed across the site.

27 objection letters have been received from local residents to the initial proposals. These concerns can be summarised as follows:

- The site should be retained as green space
- The proposal would exacerbate existing noise, dust and disturbance experienced by residents;
- The proposal should allow for adequate separation distance from the community centre;
- The proposed dwellings would result in loss of light to neighbouring properties
- Traffic problems would be worsened by the development;
- The site should be retained as a community hub;
- There is no need for more housing;
- Promises of a community hub have not been fulfilled;
- Existing development has inadequate parking facilities, the proposal would worsen this position;
- The site should be retained as a green space as a health resource;
- Traffic related accidents would be caused;
- The play facilities should be provided first;
- The site should be developed with bungalows.

### Other responses

Two letters of objection have been received from the occupiers of Nos. 3 and 11 Boyle Drive. Their concerns relate to potential loss of light and outlook and insufficient parking spaces being provided leading to on-street parking problems.

### **Consideration of the Planning Issues**

The starting point for decision making on all planning applications is that they must be made in accordance with the adopted development plan unless material considerations indicate otherwise. The main considerations in the determination of this planning application are therefore:

- Principle of residential development
- Impact on Impact of layout, scale, appearance
- Impact on Transportation and Highway Safety
- Impact on Residential amenity
- Affordable housing provision
- S106 Contributions.

### The Principle of Proposed Development

Policy CS1 sets out a development strategy and settlement hierarchy which seeks to guide residential development to main urban centres before smaller places are promoted, with provision for up to 13,940 dwellings between 2011 and 2028. Saved local plan Policy ST/2 seeks to restrict development to within the existing settlement limits to ensure developments can be met without harming the interests of other smaller settlements. The demand for housing is focused on Loughborough and the edge of Leicester. New development should be located where it helps provide people with good access to facilities. Up to 5,000 new homes are envisaged in the Loughborough and Shepshed area to 2028. Furthermore, Policy CS2 seeks to deliver growth to a high design quality. Policy CS3 seeks to meet an appropriate mix of types, and tenures having regard to the identified housing needs and the



character of the area. This proposal would comply with these policy requirements and development of the site for residential purposes is supported in principle.

Saved Local Plan policy CA/10 advises on broad locations for new shopping facilities in association with developments. In particular it points out the need for such development to be of a scale that would be necessary to serve local needs.

The site was already originally allocated for development purposes in the 2004 Local Plan and planning permission was subsequently granted for both commercial and residential (flats) on the application site. The principle of development of this site has therefore already been established.

Members should note that the current application site was specifically reserved to provide a local centre as part of the approved outline planning permission granted in May 2002 (Ref P/00/0278/2). This requirement to provide a local centre was encapsulated in the subsequently completed S106 legal agreement as a planning obligation under Clause 12 'Community Facilities'. That clause covenants the developer to set aside a 1 hectare plot of land for the purposes of a local centre for shopping, community facilities and a place of worship. Within that area:

- 0.5 hectares was to be reserved for shopping and other commercial users;
- 0.38 hectares would be reserved for community health developments including a place of worship, doctor, dental surgery and other such health and welfare facilities and community uses in a commercial hub;
- 0.2 hectares would be reserved for a community centre.

It was anticipated that the 0.5 hectare commercial hub would deliver the following;

- A local convenience store/small food retail outlets up to 380sq.m
- Mixed retail outlets up to 140sq.m
- Residential accommodation of up to 194sq.m.

This application therefore specifically relates to provisions set under clauses 12.1 and 12.2 which deal with the delivery of the proposed local centre. In particular:

- Clause 12.1.3 requires within 6 months of the occupation of the first dwelling, the submission to the Borough Council for its approval a marketing strategy designed to promote the sale or lease of the land for 0.5hectatares area reserved for shopping and commercial uses and 0.3 hectares reserved for community health and welfare developments, including a place of worship, doctor and dentist or other such health and welfare facilities and community uses and a timetable for implementation.
- Clause 12.1.4 requires the approved strategy to be implemented in accordance with the approved details.
- Clause 12.2.1 allows the land disposal for these uses to meet "full commercial price or rent"
- Clause 12.2.2 allows that the land for a place of worship shall not be required to be transferred for such use until the earlier of 5 years from the

commencement of development, or the date of occupation of the 400th dwelling.

- Clause 12.2.3 provides that the obligations for the delivery of the shopping and health and welfare uses should fall away upon completion of the development or 12 years from commencement, whichever is the earlier, if purchasers and lessees are not found and the Council is satisfied that the Marketing Strategy has been implemented, and allows the land to be developed for residential use.

Following on from the granting of the original outline planning permission and the subsequent approval of reserved matters, work on the residential development commenced in 2005. The applicant submitted a marketing strategy prepared by Mather Jamie on the 22nd February 2008. This advocated advertising the site on their website, displaying a marketing board, advertising within the Loughborough Echo and the Leicester Mercury and also within the Estates Gazette and regional agents for a period between 6 to 9 months. The submitted marketing strategy was considered acceptable in principle. However the strategy recommended deferral of the commencement of marketing until the last 50-100 houses remained to be built on site. This was in recognition of the poor trading conditions arising from the recession that resulted from the global financial crisis at the time. This position was accepted by the planning authority.

Members should note that a number of separate marketing exercises have been carried out by the developers since 2008 and they have also sought to demonstrate the local centre is not commercially viable. The applicant submitted a viability assessment undertaken by Sturgis, Snow and Astill dated September 2012. It concluded the provision of retail shops in this location was an unviable prospect. However, it should be noted that this assessment focused only on retail viability and did not provide an assessment of demand for community, health and well-being uses.

A marketing assessment dated 8th August 2018 prepared by Mather Jamie was submitted with the application as evidence of marketing activity. This assessment was subsequently replaced with a revised version on 23rd November 2018. This latest evidence report, also prepared by Mather Jamie, draws attention to the growth in the internet and trends for online retailing and changes in retailing patterns in smaller local centres. The applicant also points to the development of a new local centre at the junction of Allendale Road and Ling Road which includes an Aldi Foodstore, Subway, Greggs and Costa Coffee. The applicant has given separate consideration to the provision of a single retail convenience store on the site but this is not considered viable given the proximity of Aldi or appropriate given the proximity of the surrounding housing. The applicant's view is that the Aldi store and retail services which are now operational has negated the need for a new Local Centre within the Grange Park site.

The Health and Wellbeing facility was an important component of the local centre approved under the permission P/00/2078/2 and was conceived to provide a more balanced range of uses in the local centre. The Marketing Strategy confirms and notes that the Clinical Commissioning Group have stated in writing that it has no plans to build a new GP Practice in this location and that it is instead focusing on supporting GP practices elsewhere in Loughborough to extend or improve their

existing premises. The applicant has also stated that a contract was given in Loughborough for a new dental surgery that has absorbed much of the demand for further dentists. Furthermore the location in Grange Park is considered remote and they suggest operators of day nurseries (for example) prefer to be on visible sites on main routes.

The applicant has pointed out that since the marketing of the site commenced they have not been approached with any propositions for a specific place of worship. However they have been in discussions with the future operators of the Community Hall (Grange Park Centre) for which work has now commenced. It is anticipated that the custodians of the Community Hall would let rooms within the building to allow worship to take place.

The evidence provided by the applicant in the form of a number of marketing strategies and supporting commercial viability information is considered to be robust and with the recent construction of a local commercial centre less than a mile away, it is considered that the applicant has fulfilled its obligation under clause 12.2 of the S106 agreement. It is important to note, that in this situation, the s106 includes a fall-back position that allows the site to be considered for residential purposes.

Having regard to the sites attributes and accessibility to nearby facilities, together with the contribution that it would make towards the housing land supply and the fact the site is within an established built up existing residential area, there is no objection in principle to the proposed residential development for the reasons set out above. As such it is considered that the application accords with the adopted Core Strategy Policy CS1, Saved Policy ST2 and the overall aims and objectives of the latest revised National Planning Policy Framework.

#### Impact of Layout, Scale and Appearance

Policy CS2 and saved Policy EV/1 requires developments to respect and enhance the character of the area, having regard to scale, massing, height, landscape, layout, materials and access and protect amenities.

The NPPF requires planning decisions to be responsive to local circumstances and support housing proposals that reflect local needs. The NPPF identifies the creation of high quality places and buildings as being fundamental to what good planning should achieve. Good design is viewed as a key aspect of sustainable development. The NPPF specifically requires design quality to be considered throughout the evolution and assessment of individual proposals. Developments are required to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Just as importantly, the NPPF requires planning authorities to ensure that the quality of approved developments does not become materially diminished between permission and completion, as a result of changes being made to the permitted scheme.

The development seeks to build on land which is currently open and exposed bounded by metal fencing. Any development of the site should be designed not only to protect amenities of surrounding residential occupiers but also consider the impact on the wider locality. The latest revised development proposal reduces the number of units from 30 to 24, as now presented it takes the form of a modern housing estate with standard layout and house types which reflects the character of the

surrounding development and would respect the visual relationships of its surroundings. It is considered the proposal has been largely designed to fit in with its context.

The plot sizes and house types remain largely uniform in terms of scale, design and appearance. However, there are instances where habitable rooms on front elevations are closer than 21 metres to other dwellings' habitable rooms, albeit bisected by the public highway. This does not strictly meet the Council's standards. However this distance primarily aims to protect loss of privacy and overbearing impact with regards to private rear gardens. This circumstance does not affect private amenity areas to the rear of dwellings and these do meet the standard. These relationships are replicated elsewhere on the Grange Park Estate and it is considered acceptable given that the proposal should be viewed within its surrounding context.

The proposal is a relatively small scale development on a piece of land which is currently undeveloped. The site does lend itself to follow basic design principles, and the current design provides an active frontage along the street, creating a well-defined street scale. The space has also been designed to allow for enhanced tree planting and general planting. On the whole, the layout maintains a back-to-back relationship which protects both the amenity of existing and future residents. The number of units have been reduced from 30 dwellings to 23 two storied dwellings and a single bungalow. In conclusion, this proposal would create an acceptable living environment and the submitted plans would accord with Core Strategy policy CS2, saved policy EV/1 of the Borough of Charnwood Local Plan, and the aims and objectives of the revised National Planning Policy Framework and would be within the spirit of the guidance contained Leading in Design (SPD).

#### Impact on Residential Amenity

Policy CS2 and saved Policy EV/1 requires developments to respect and enhance the character of the area, having regard to scale, massing, height, landscape, layout, materials and access and protect amenities. Concerns have been raised by local residents with regards to the proposal's impact on the residential amenity of adjacent dwellings. In line with existing local policies, the revised NPPF seeks to require a good standard of amenity for all existing and future occupiers.

The proposed dwellings would be erected largely on the perimeter of the site with existing residential dwellings in close proximity. With regard to spatial relationships within and around the surrounding residential dwellings, the proposal does demonstrate there would be adequate separation distances to prevent significant loss of privacy, outlook or light occurring to the detriment of residential amenities. To this end, members should note that the original consented scheme for the local centre proposed buildings that were actually generally higher in roof line and larger in mass than what is currently proposed by this residential scheme. When viewed from the surrounding residential properties adequate separation distances would be retained to prevent excessive loss of light and overshadowing occurring.

To further safeguard visual amenities, planning conditions requiring details of materials, boundary treatment and landscaping to be provided are recommended. Due to the size of the plots and relatively small garden areas a planning condition is recommended removing permitted development rights to protect both existing and

future occupants. The applicants have raised no objection to this. The surrounding open space/play facilities are located in acceptable positions with sufficient separation distances to the proposed dwellings.

It is considered by officers that due to the dwellings' design, scale, and the position of their windows, the proposal would comply with saved Policy EV/1, Policy CS2 of the Development Plan and in general accordance with the SPD Leading in Design.

#### Impact upon Transportation, Highway Safety and Parking Provision

Core Strategy Policy CS 17 and saved local plan policy TR/18 seek to achieve and promote safe and sustainable patterns of development. The NPPF states that the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making. The revised NPPF also states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The new vehicular accesses are considered acceptable by the Highway Authority. Adequate separation exists to prevent nearby residential occupiers' amenities being adversely affected. The County Council Highway Authority have raised no objections to the principle of the development. Each property would have 2 car parking spaces allocated within forecourt or garages and this is satisfactory to the Highway Authority. It is concluded that the proposal as revised would be served by sufficient parking provision and by a safe access for all highway users and meet the provisions of Policy CS17 of the adopted Core Strategy, Policy TR/18 of the local plan and the aims and objectives of the revised NPPF.

#### Affordable Housing and S106 Requirements

Policies CS3, CS15 and CS24 of the adopted Core Strategy, require the delivery of appropriate infrastructure to meet the aspirations of sustainable and inclusive development in accordance with the revised Framework and Community Infrastructure Levy (CIL) Regulations to mitigate the impact of the proposals.

With regard to Affordable Housing, Policy CS3 seeks to balance the community's housing needs through the provision of 30% affordable housing in Loughborough having regard to an appropriate mix of types, tenures and sizes of homes, having regard to the identified housing needs and the character of the area. The NPPF states where a need for affordable housing is identified, projections of affordable housing need will have to reflect new household formation, the proportion of newly forming households unable to buy or rent in the market area, and an estimation of the number of existing households falling into need.

The Housing Strategy Team has advised that the 7 dwellings (of which 5 units would be for rent and 2 would for shared ownership) would be required. The exact tenure for the affordable housing would be:

- 2 x 3 bed shared ownership;
- 4 x 2 bed rent and
- 1 x 2 bed bungalow for rent,

These are considered acceptable and would be secured through the S106 legal agreement. It is considered the proposed affordable housing provision would comply with Policy CS3 and the advice in HEDNA which seeks to secure an appropriate mix and tenure to meet the Borough's housing needs.

With regard to open space, sports and play improvements, a request has been made by the Council's Open Space Team for contributions towards Parks, Natural & Semi Natural Open Space, Amenity Green Space, Play Provision for Children, Outdoor Sports facilities and Allotments. These contributions are considered to be acceptable to meet the needs of the new residents, in line with existing local policies and are considered to comply with the CIL Regulations.

On the issue of health care contributions, the Clinical Commission Group (CCG) did originally request a level of contribution commensurate with the 900 dwellings granted under outline planning permission P/00/2078/2. In response, the applicants have pointed out that during the consideration of that particular application no request was made for a healthcare facility and the application was determined on that basis. Contributions cannot be collected retrospectively for previous planning permissions. The CCG have also subsequently confirmed separately to the applicants that they did not wish to provide a surgery on the site. The CCG has accepted that retrospective payments from the developer cannot be secured and since requested contributions directly in relation to this latest application only. This financial contribution would be secured through a S106 legal agreement and is considered CIL compliant.

The County Council has requested contributions towards library facilities, secondary and Post 16 educational facilities and sustainable travel. These requests are considered to be reasonable and compliant with CIL Regulations.

### Other Issues

Residents have raised concerns that the adjacent open space and play area have not been provided as part of the wider earlier approved development. The applicant has stated they are committed to providing the play area and open space in accordance with the approved details. This is not a material consideration for this application and is secured through the previous planning permission.

Concern has been raised that the site should be developed with bungalows only. The applicant does not consider this would meet their requirements and would also look out of character with the surrounding two storey development. The local Planning Authority is obliged to consider the application submitted to it and not any other that might be desired by respondents. It is considered the proposed layout and design of dwellings is acceptable and that the refusal of the development on the grounds that it does not provide sufficient bungalows could not be justified.

## **Conclusion**

The Development Strategy set out in the Core Strategy under Policy CS1 seeks to guide development to locations that are well connected to jobs, services and infrastructure in order to provide a sustainable pattern of development. The latest revised NPPF seeks to proactively drive and support housing sustainable economic development to deliver new homes. The previous uses for the site are no longer considered viable and it is considered this should be accepted by the local planning authority. For the reasons set out in the report, it is considered that the principle of residential development on an allocated site for residential development is acceptable

Requests for financial contributions have been made from the County Council and the Health Authority and the Borough Council's Open Space Team these are considered to be CIL compliant as they are related to the development and necessary to make the development acceptable in planning terms and related in scale and kind to the development.

The development is also considered to be acceptable with regards to design, residential amenity and highway safety for the reasons set out above. Accordingly it is recommended that the application is granted conditionally subject to the completion of a section 106 agreement as set out below;

### **RECOMMENDATION A:**

That authority is given to the Head of Planning and Regeneration and the Head of Strategic Support to enter into an agreement under section 106 of the Town and Country Planning Act 1990 to secure improvements, on terms to be finalised by the parties, as set out below:

- Provision of on-site Affordable Housing involving a total of 7 dwellings, the exact tenure for the affordable housing would 2 x 3 bed shared ownership; 4 x 2 bed rent and 1 x 2 bed bungalow for rent.
- A financial contribution towards secondary school education provision and to the Post 16 sector
- A financial contribution of £780 towards Quorn library
- A financial contribution of £4,681.44 (£195.06 x 24 dwellings) towards improving existing to health facilities
- A financial contribution towards Sustainable Travel Packs supplied at £52.85 per pack & 6 month bus passes at a cost of £360.00 per pass
- A financial contribution of £77,315.53 towards the provision of off – site natural and semi natural open space; parks; open space for young people/children; the provision of outdoor sports facilities and towards the provision of allotments

### **RECOMMENDATION B:-**

That subject to the satisfactory completion of the agreement in A above, planning permission be granted subject to the following conditions:

1 The development, hereby permitted, shall be begun not later than 3 years from the date of this permission.  
REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the approved plans and Drawing Nos.

- 13-095 P02 Rev Y – Proposed Site Layout Plan
- 13-095 P03 Rev M – Proposed Hard Landscaping Plan
- 13-095 P04 Rev K – Proposed Boundary Treatments Plan
- 13-095 P06 Rev F – Proposed Street Elevations
- L89 Brick Screen Wall
- L62 Waney Edged Fence
- L59 Timber Knee Rail
- L44 Timber Screen Fence
- 13-095-BD-1 Rev A Bedale
- 13-095-DL-1 Rev A Dalton
- 13-095-BC-1 Beck
- 13-095-RP-A Ripon
- 13-095-DK-1 Denwick
- 13-095-DK-2 Denwick Render Option
- 13-095-DS(PC)-2 Douglas Render Option with Projecting Chimney
- 13-095-DS-2 – Douglas Render Option
- 13-095-DE-7 Dove Gable Option
- 13-095-LA-1 Lea
- 13-095-RR-1 Rother
- 13-095-ST-1 Solent
- 13-095-ST1-PC Solent Chimney Option
- 13-095-TS-1 Thirsk
- 13-095-GB03 Semi Side Gable
- 13-095-GB06 Single Front Gable

REASON: To define the approval.

3. Prior to the commencement of the development hereby permitted, a Construction Environmental Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved CEMP. The CEMP shall include but not necessary be restricted to the following details;

- a) Details of the siting of all vehicles of site operatives and visitors;
- b) The location of, extent and duration of any temporary stockpiling areas;
- c) Measures to prevent mud being deposited on the surrounding highway;
- d) A programme of implementation for items(a)-(c)



REASON: To protect the amenities nearby occupiers and comply with saved Policy EV/1 of the Local Plan, Policy CS2 of the Adopted Core Strategy and comply with the aims and objectives of the NPPF.

4. No external related construction activities shall take place outside the hours of 08:00 to 18:00 Mondays to Fridays or 09:00 to 14:00 hours on Saturdays. No such operations shall take place at any time on Sundays or Bank/Public Holidays.

REASON: To protect the amenities nearby occupiers and comply with saved Policy EV/1 of the Local Plan, Policy CS2 of the Adopted Core Strategy and comply with the aims and objectives of the NPPF.

5. Prior to the commencement of the development hereby permitted, details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to the Local Planning Authority in writing for approval. Sample panels of the proposed surfacing materials (Brickwork and tiles) at least a metre squared (showing where appropriate the proposed coursing, method of pointing and colour of mortar) shall be erected on the site for consideration and subsequent approval. The panels shall be retained on site until the completion of the works. The development shall then be implemented in accordance with the approved details.

REASON: To protect the visual of the locality and comply with saved Policy EV/1 of the Local Plan, Policy CS2 of the Adopted Core Strategy and comply with the aims and objectives of the NPPF.

6. Prior to the commencement of the development hereby permitted, a landscape scheme detailing both soft and hard landscaping works shall be submitted in writing to the Local Planning Authority in writing for approval. The scheme shall include the following:

- a) Details on an enhanced soft boundary treatment along the side of the site adjoining the community hall;
- b) Fully annotated planting plans, showing locations of semi mature trees, shrubs and planting and hedging. Other information shall include planting schedules, method of cultivation and details of the proposed planting implementation programme;
- c) Surfacing treatment of the pedestrian circulation areas/paths.
- d) A 5 year aftercare for the landscape management and maintenance which shall provide a replacement tree of the same species and size as that originally planted within a period of 5 years from its date of planting, is removed, uprooted or is destroyed or dies or in the opinion of the Local Planning Authority becomes seriously damaged or defective.
- e) Details of the siting, appearance and design of bird nest brick/boxes, to be incorporated into the development;
- f) Details of the siting, appearance, design and screening arrangements of refuse and recycling bin storage facilities to be provided on the site

REASON: To protect the visual of the locality and comply with saved Policy EV/1 of the Local Plan, Policy CS2 of the Adopted Core Strategy and comply with the aims and objectives of the NPPF.

7. The approved landscaping details agreed in Condition 6 above shall be implemented in full no later than the end of the first planting season available after the development hereby permitted being brought into first occupation.  
REASON: To secure the satisfactory development of the site and comply with saved Policy EV/1 of the Local Plan, Policy CS2 of the Adopted Core Strategy and comply with the aims and objectives of the National Planning Policy Framework.
8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development ) Order 2015 or any Order amending, revoking and/or re-enacting that Order, with or without modification. No extensions or alterations relating to Classes A, B, C, D & E of Part 1 of Schedule 2 or Part 2 Class A of Schedule 2 shall be erected without the prior written consent of the Local Planning Authority.  
REASON: To secure the satisfactory development of the site and comply with saved Policy EV/1 of the Local Plan, Policy CS2 of the Adopted Core Strategy and comply with the aims and objectives of the National Planning Policy Framework.
9. No development approved by this planning permission shall take place until such time as a surface water drainage scheme has been submitted to, and approved in writing by the Local Planning Authority.  
REASON: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.
10. No occupation of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority.  
REASON: To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the proposed development.
11. No part of the development hereby approved shall be occupied until such time as the access arrangements including the removal of all redundant existing accesses and junction radii have been implemented in full  
REASON: To ensure vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and to accord with the aims and objectives of the revised NPPF.
12. The development hereby permitted shall not be occupied until such time as the access drives (and any turning space) have been surfaced with tarmacadam or similar hard bound material for a minimum distance of 5 metres behind the highway boundary and shall thereafter be maintained as such in perpetuity.

REASON: In the interests of general highway safety and to accord with the aims and objectives of the revised NPPF.

13. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with the approved plans. Thereafter the onsite parking provision shall be maintained and retained as such in perpetuity.

REASON: To ensure that adequate of – street parking provision is made, in the interests of general highway safety and to accord with the aims and objectives of the revised NPPF.

14. No part of the development hereby permitted shall be occupied until such time as 1m by 1m pedestrian visibility splays have been provided on the highway boundary on both sides of each vehicular access fronting a pedestrian footway with nothing on those splays exceeding 0.6m above the level of the adjacent footway/verge/highway and once provided shall be provided in perpetuity.

REASON: In the interests of general highway and pedestrian safety and to accord with the aims and objectives of the revised NPPF.

#### Information Notes

- 1 DEVELOPMENT PLAN POLICIES RELEVANT TO THIS DEVELOPMENT - Policies CS1, CS2, CS3, CS15, CS16, CS17, CS24 and CS25 of the Charnwood Local Plan (2011-2028) Core Strategy), Policies EV/1, ST/2, TR/18, EV/31 and CA/10 of the Borough of Charnwood Local Plan, The National Planning Policy Framework and the Borough Council's adopted Supplementary Planning Documents, have been taken into account in the determination of this application. The proposed development complies with the requirements of these policies and there are no other material considerations which are of significant weight in reaching a decision on this application.
- 2 Planning permission has been granted for this development because the Council has determined that, although representations have been received against the proposal, it is in accordance with the terms of the above-mentioned policies and, otherwise, no harm would arise such as to warrant the refusal of planning permission.
3. The decision has been reached taking into account paragraphs 38 of the National Planning Policy Framework (revised Feb 2019) and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.
4. The scheme shall include the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year return period event plus an appropriate allowance for climate change, based upon the submission of drainage calculations.

Full details for the drainage proposal should be supplied, including but not limited to SuDS details, pipe protection details, full model scenarios for the 1 in 1, 1 in 30 and 1 in 100 year plus climate change (40%) return periods

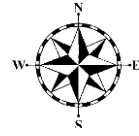
5. Details of the surface water Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the surface water drainage system that will not be adopted by a third party and will remain outside of individual householder ownership.
6. If the roads within the proposed development are to be offered for adoption by the Local Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees prior to the commencement of the development.
7. To erect temporary directional signage you must seek the prior approval from the Local Highway Authority



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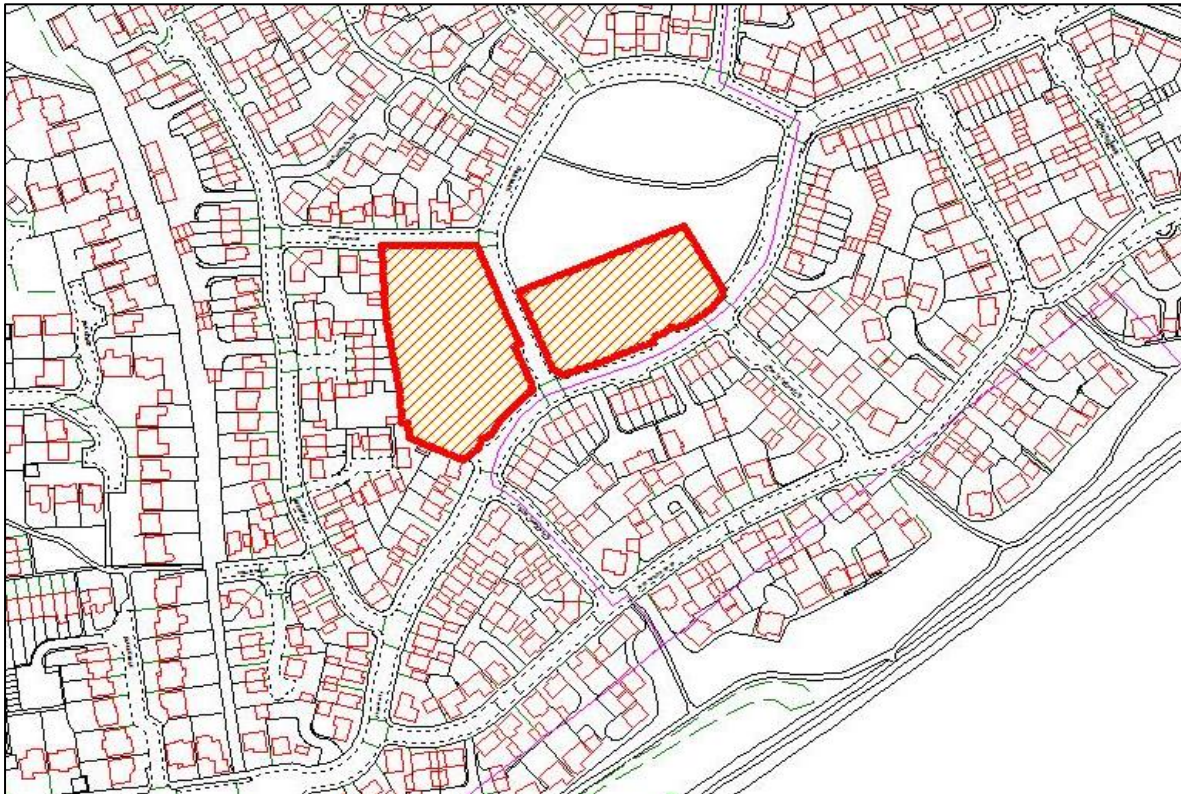
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Reference No: P/18/0888/2

Location: Land off Highland Drive and Knox Road, Loughborough



## Item No. 2

### Application Reference Number P/18/2469/2

<b>Application Type:</b>	Householder	<b>Date Valid:</b>	07/12/2018
<b>Applicant:</b>	Mr Mick Burke		
<b>Proposal:</b>	Two storey extension to side and rear and single storey extension to rear of dwelling.		
<b>Location:</b>	7 Derwent Drive Loughborough Leicestershire LE11 3RJ		
<b>Parish:</b>	Loughborough	<b>Ward:</b>	Loughborough Nanpantan
<b>Case Officer:</b>	Louise Winson	<b>Tel No:</b>	01509 634742

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This item has been called in to Plans Committee at the request of Councillor Smidowicz who has a number of outstanding concerns about the proposal.

### Description of the Application

The application site forms one half of a pair of semi-detached dwellings on the eastern side of Derwent Drive. The dwelling has a lawful use as a C4 House in Multiple Occupation for up to six people. A Certificate of Lawful Use was granted in August 2018 under the application reference P/18/1238/2, after it was demonstrated to the Council that the change of use to a HiMO had occurred before the introduction of the Article 4 Direction in February 2012.

The surrounding area is residential and within convenient walking distance of a small collection of shops to the north. The site also benefits from good public transport links and is within walking and cycling distance of Loughborough town centre.

The locality is typically characterised by detached and semi-detached dwellings of varying styles and plots. No.7 is set back from the street and benefits from a front garden area and small driveway/parking area. There is also a driveway along the side of the property to serve a detached garage to the rear of the property, along the boundary with No.5 Derwent Drive, a detached dwelling. No.5 has undergone a side extension to provide a garage and utility room along the boundary with No.7. The adjoining property, No.9 is of similar design and scale to No. 7, although it has undergone a single storey rear extension along the boundary with No.7. There are further residential properties to the rear along Keswick Avenue.

This application seeks consent to provide a two storey extension to the side and rear of the dwelling, along with a single storey rear extension. The two storey rear extension would be 4.8m high to the eaves and centralised on the rear elevation and approximately 2.3m away from the boundary with No.5 and approximately 1.5m away from the side boundary with No.9. The single storey rear extension would be 2.7m high at the eaves. The roof of the single storey rear extension would be pitched away from No.5, and hipped onto the rear elevation of No.7, adjacent to No.9. This would match the roofline of the

extension to No.9. The two storey side extension would be situated along the boundary with No.5 and would have an eaves height of 4.9m and a ridge height of 7.8m.

The extension would increase the number of bedrooms at the property from four to six, along with a communal living and dining area. The submitted plan makes provision for three off-street parking spaces to be provided to the front of the dwelling.

Following officer advice, amended plans have been received which make provision for the two storey side extension to appear more subordinate to the existing dwelling, and for the roof of the single storey rear extension to be hipped away from No.5 to reduce the impact on this property.

## **Development Plan Policies**

### Charnwood Local Plan 2011-2028 Core Strategy

Policy CS1 – Development Strategy sets out the development strategy and directions of growth for the Borough.

Policy CS2 – High Quality Design requires new developments to respect and enhance the character of the area, protect the amenity of people who live and work nearby and function well and add to the quality of the area.

Policy CS4 – Houses in Multiple Occupation seeks to support the well-being, character and amenity of our communities by managing the proportion of houses in multiple occupation. It states that Class C4 dwellings will be prevented where they, either in themselves, or cumulatively with other HiMOs damage the social/physical character and amenity of a street or residential area or generate noise and disturbance which is detrimental to the amenity of the street or residential area or generate a demand for on-street car parking that would prejudice the safe operation of the highway or cause detriment to amenity.

Policy CS16 – Sustainable Construction and Energy encourages sustainable design and construction and the provision of renewable energy including supporting developments that reduce waste, provide for the suitable storage of waste and allow convenient waste collections.

### Borough of Charnwood Local Plan

Policy EV/1 – Design seeks to ensure a high standard of design for developments, which, inter alia, respects and enhances the local environment, is of a design, layout, scale and mass compatible with the locality and utilises materials appropriate to the locality.

Policy H/17 – Extensions to Dwellings states that planning permission will be granted provided the development meets specific criteria relating to the scale, mass, design and use of materials with the original dwelling etc.

Policy TR/18 – indicates that planning permission will not be granted for development unless off-street parking for vehicles, including cycles, and servicing arrangements are included to secure highway safety and minimize harm to visual and local amenities. The

policy promotes standards that would require 3 parking spaces for a 4 or more bedroom dwelling, although it states that this will be used as the starting point in assessing the level of provision and represent the maximum level. The quantity of parking allowed should reflect the proposed use and the location of development, the availability of public off - street parking; the current, or potential accessibility by non-car modes and the scope for practical measures to significantly reduce the use of private car trips to and from a site.

## **Other material considerations**

### The National Planning Policy Framework

The National Planning Policy Framework (chapter 7) sets out a presumption in favour of sustainable development. The framework identifies the economic and social roles of the planning system, both to build a strong responsive economy by ensuring land (and presumably buildings) are available in the right place at the right time, and supporting the health of the community by ensuring housing for present needs that has a high quality built environment, which encompasses social and cultural well-being. One of the principles of planning is to seek a good standard of amenity for all existing and future occupants of land and buildings. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

### Leading in Design SPD

The adopted Leading in Design Supplementary Planning Document is a working document intended to encourage, promote and inspire higher design standards in development throughout Charnwood.

### House Extensions SPG

The adopted House Extensions Supplementary Planning Guidance (2001) sets out guidelines for the assessment of house extensions on neighbouring amenity. The SPG remains broadly consistent with Saved Local Plan policy EV1 and H17 and Core Strategy policy CS2

### The Leicestershire Highways Design Guide (2018)

This is a guide for use by developers and published by Leicestershire County Council, the local highway authority, and provides information to developers and local planning authorities to assist in the design of road layouts in new development. The purpose of the guidance is to help achieve development that provides for the safe and free movement of all road users, including cars, lorries, pedestrians, cyclists and public transport. Design elements are encouraged which provide road layouts which meet the needs of all users and restrain vehicle dominance, create an environment that is safe for all road users and in which people are encouraged to walk, cycle and use public transport and feel safe doing so; as well as to help create quality developments in which to live, work and play. The document also sets out the quantum of off-street car parking required to be provided in new housing development.



## Housing Supplementary Planning Document December 2017

A Housing Supplementary Planning Document was adopted (as amended) in December 2017 which provides guidance when dealing with Houses in Multiple Occupation proposals in the context of adopted Core Strategy Policy CS4.

Section 4 of the Housing SPD provides guidance for assessment of applications that propose small or large houses in multiple-occupation. Small HiMOs are defined as shared houses or flats occupied by between 3 and 6 unrelated individuals who share basic amenities and large HiMOs are for more than 6 occupiers and are a 'sui generis' use. i.e. they do not fall into any existing class in the Town and Country Planning (Use Classes) Order. These proposed changes of use do not benefit from being 'permitted development' in Loughborough due to the Article 4 Direction that was introduced in 2012.

The SPD accepts that HiMOs help to meet local housing requirements and can be an important type of accommodation for a range of people including those on low incomes and young people (para 4.1) and it also repeats the objectives of Core Strategy Policy CS4 that seeks to support the well-being, character and amenity of local communities by managing the proportion of HiMOs.

The SPD also provides guidance in respect of the Policy CS4 criteria for considering the potential impact on the social and physical character and amenity (HSPD12), amenity space (HSPD 13), noise insulation (HSPD 14) and parking (HSPD 15).

## The Crime and Disorder Act 1998

This places a duty on the local planning authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on community safety is therefore a material consideration in the determination of planning applications.

## National Planning Practice Guidance (PPG)

The National Planning Practice Guidance (PPG) reinforces and provides additional guidance on the policy requirements of the Framework and provides extensive guidance on design and other planning objectives that can be achieved through getting good design. These include the consideration of local character, landscaping setting, safe, connected and efficient streets, crime prevention, security measures, access and inclusion, efficient use of natural resources and cohesive and vibrant neighbourhoods.

## Article 4 Direction

Although an Article 4 Direction has applied in Loughborough since February 2012, which removes the rights to change the use of Class C3 dwellings to Class C4 Houses in Multiple Occupation in Loughborough, this is not directly relevant to this application. This is because the applicant has secured a Certificate of Lawfulness in 2018 confirming the property was used as a C4 HiMO before 2012 when the Article 4 Direction came into effect.

## **Relevant Planning History**

P/18/1238/2 – Certificate of Lawfulness for use of the property as a House in Multiple Occupation (C4). This certificate makes provision for the dwelling to be occupied by up to 6 unrelated people and was granted unconditionally on 9th August 2018.

## **Responses of Statutory Consultees**

### The Leicestershire County Council Highway Authority

The Highway Authority has no comment to make on the application and has referred to adopted Standing Advice

### The Council's Environmental Health Officer

The EHO raises no objection to the proposal given the lawful use of the property.

### The Council's Private Sector Housing team

The Team raises no objections to the proposal.

## **Other Comments Received**

Councillor Smidowicz objects to the proposal on the following grounds:

- The increase in the number of bed spaces at the property would lead to community imbalance
- The scale of the proposal would have negative effects on the adjacent neighbouring properties by reason of over-dominance, loss of daylight and noise and disturbance
- The proposal represents an overdevelopment of the site which is not in-keeping with the immediate properties and would thereby have an adverse effect on the street scene.
- The proposal fails to provide sufficient parking and would be detrimental to highway safety

11 letters of objection have been received from neighbouring properties. Concerns regarding the proposal include:

- Loss of sunlight and daylight
- Loss of privacy to the adjoining properties through increased overlooking
- Increased noise and disturbance due to the increase in occupancy
- The extensions would be out of scale, over-dominant and detrimental to the character of the area
- Unsightly appearance of bins
- Continued community imbalance
- The proposal would have an overbearing impact on the street scene
- The extension would cover a manhole leading to drainage problems
- Parking and highway safety

- Increased odour
- Potential for untidy front gardens

The Nanpantan Ward Residents' Group has objected on the following grounds:

- Over-concentration of HIMOs in the area
- The proposal is an over-development of the site
- The proposal will have an over-bearing impact on the street scene
- Loss of a family dwelling
- Highway safety and parking.

### **Consideration of the Planning Issues**

The main issues to be considered in the determination of this application are:

- Principle of development
- Design and the Impact on the Street Scene
- The Impact on Residential Amenity
- Highway Safety
- Other Matters.

#### The Principle of the Development

The starting point for decision making on all planning applications is that they must be made in accordance with the Development Plan unless material considerations indicate otherwise. Policies in the adopted Core Strategy and the saved policies in the Borough of Charnwood Local Plan are therefore the starting point for consideration. The application site is within Loughborough, one of the main urban areas of the Borough, where the principle of extending dwellings is acceptable. The proposal is therefore in accordance with Policy CS1 of the Core Strategy and Policy ST/2 of the saved Local Plan.

#### Design and the Impact on the Street Scene

Concerns have been raised regarding the design and scale of the proposed extensions. Core Strategy Policy CS2, saved Local Plan Policy EV/1 and the Leading in Design SPD seek high quality design that is of a design, layout, scale and mass compatible with the locality and respects and enhance the character of the area. The House Extensions SPG seeks to avoid development that creates a terracing effect and encourages development which reflects the existing characteristics of dwellings.

It is acknowledged that the scale of the proposed extensions is large; however the scheme has been amended to provide a set back at the front side elevation and to provide a lower ridge height. This results in a proposal that is now subordinate to the existing dwelling and would not result in a terracing effect. The revised plans ensure that the front elevation of the extension is set back from the front elevation of the garage belonging to No.5, which would provide a break between the dwellings. The design and features of the side elevation would match those of the existing dwelling and it is not considered that the extension would form a visually intrusive feature within the street scene. The street does not benefit from any uniformed appearance or layout that the development would be at

odds with. Matching materials are also proposed which will help the development assimilate into its surroundings.

The provision of the extension to the rear would not be seen from any public areas and therefore its impact on visual amenity would be minimal. However, the design of these elements is also considered to be acceptable. Whilst differing roof styles are proposed for the rear extensions along the boundary with the neighbouring properties, this approach has been taken to match the extension to No.9 and reduce the impact on No.5. Given this context, it is considered that this approach is acceptable.

Concern has been expressed regarding No.5, a detached dwelling, appearing as a semi-detached dwelling as a result of the proposed two storey side extension. However, it is not uncommon for extensions to dwellings to be adjacent to boundaries with neighbouring properties. Likewise, the concern expressed regarding the potential impact on No.5 being able to extend to the side in the future is not considered a reason for refusal which could be justified or sustained. If planning permission was sought for a side extension to No.5 in the future, this would need to be considered on its own merits in accordance with the provisions of the Development Plan at that time.

It is also pertinent to point that the application does not propose a new or unusual design approach, and that similarly designed extensions have been approved elsewhere in the Borough. One example of this is an almost identical development approved at No.47 Ashleigh Drive under reference P/17/2486/2.

Overall, planning applications need to be considered on their individual merits in accordance with the Development Plan. Given this and the above context it is not considered that the amended proposal would represent an incongruous development in the street scene. As such, in design terms, the development is considered acceptable and complies with the provisions of Core Strategy policy CS2, saved local plan policies EV/1 and H/17, the House Extensions SPG, the Leading in Design SPD and the Framework.

### The Impact on Residential Amenity

Core Strategy Policy CS2 and saved local plan policies EV/1 and H/17 promote high quality design and layouts to preserve residential amenity for both occupiers of existing neighbouring properties and the future occupiers of new development. Further guidance on residential amenity is set out in the Leading in Design SPD and the House Extensions SPG.

Concern has been expressed regarding the provision of extra bedrooms at the property to accommodate 6 people, and the impact this will have on the social character of the area. However, it should be noted that this is not an application for a change of use of the dwelling to a C4 House in Multiple Occupancy. Following the grant of the Certificate of Lawfulness in 2018, the property has a lawful use as a C4 HiMO for up to six unrelated people. This means six unrelated people could occupy the property at any time without the need for any further consent from the local planning authority. It is, however, acknowledged that it is more likely that the proposal if approved would accommodate 6 unrelated persons than the current property.

Concern has also been expressed regarding the scale of the extensions and the impact on the amenities of neighbouring properties. The amended proposal does not breach the '45 degree angle of light' rule as advocated by the Building Research Establishment as being an accepted way of assessing loss of daylight and is advocated within the Council's adopted SPG on House Extensions. It is considered that the orientation of the property and the overall height and design of the amended extension are such that a significant loss of sunlight and daylight is unlikely to be caused to the adjoining properties. The amended proposal also complies with the minimum distances set out in the adopted Leading in Design SPD, which seek to prevent over dominance and loss of privacy to neighbouring properties.

The Housing SPD requires consideration of whether noise from either a new HiMO in itself, or cumulatively with others will generate unacceptable levels of noise and disturbance. Where such impacts are identified, the SPD sets out measures for how noise and disturbance can be mitigated.

As previously stated, the occupation of the property by up to six unrelated people is lawful, which is a material consideration in this case. Noise in HiMOs can often be a concern for objectors because of the number of people who are living independently within the dwelling which can be considered to adversely affect the amenity of neighbouring properties. The proposal provides bedrooms for six occupants, which is two more than the present time. Therefore, whilst the property has a C4 use, the consideration of this application requires a judgement to be taken on the potential for noise and disturbance resulting from the extensions and its impact on neighbouring amenity.

The property is a semi-detached dwelling, and the amended application makes provision for extensions along the boundaries with the neighbouring properties. With regard to noise transference between the semi-detached properties, there is no guarantee that there would not be some sound transmission to the adjoining properties. However, it is considered that it would be unreasonable to refuse planning permission on the basis of noise concerns without any evidence that the property would be noisier than the existing use, given that the property will remain as a residential use and the additional bedrooms to be created would not be adjacent to any habitable room of the neighbouring properties. For this reason, it is also not considered reasonable to apply a planning condition requiring the provision of sound proofing to conform with building regulations (document E) as set out in the HSDP14.

Information from the Borough Council's Community and Partnerships Team shows that over the past year, there have been a total of three recorded incidents relating to anti-social behaviour in the locality around Derwent Drive, which includes Rydal Avenue, Keswick Avenue and Kirkstone Drive. None of these incidents were however along Derwent Drive or attributed to students. It is considered that these reported incidents are comparatively low and is further evidence to suggest that the current proposal for extensions to the existing C4 dwelling is unlikely to result in a significant increased noise and disturbance in the locality which would warrant a refusal of the planning permission.

To conclude therefore, whilst it is considered that there will be instances where a clash of lifestyles or behaviour may cause disturbance to adjoining occupiers, it is considered unreasonable to assume the proposal would lead to an unacceptable level of noise and disturbance to neighbouring properties. Conflict that occurs in individual cases is not a

matter that can easily be expressed as a planning control. Such occurrence can be dealt with by other forms of regulation. Due to the level of evidence available, it is concluded that there is insufficient justification to refuse the application on the basis of a perceived increase in noise and disturbance.

The provision of bin storage for HiMOs can also be of concern for local residents. The property has sufficient space to its frontage to accommodate the range of current wheelie bin types offered as part of the regular domestic refuse collection service and bins can therefore be stored off the pavement on collection days. A condition is recommended to require the details of the bin storage facilities to be submitted in the interests of neighbouring and visual amenity.

Given the above context, it is not considered that the amended proposal would have a substantial adverse impact on neighbouring amenity. As such, the proposal accords with Core Strategy Policy CS2, saved local plan policy EV/1, the Framework, the House Extension SPG and the SPD's on Housing and Leading in Design.

### Highway Safety

Saved local plan policy TR/18 requires new development to provide off-street parking for vehicles and promotes standards that requires 3 parking spaces for a 4 or more bedroom dwelling in the interests of highway safety. Paragraph 109 of the NPPF states that; new development should only be resisted on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.

Concern has been expressed by residents about the impact of the proposal on on-street parking in the area, claiming that the proposal would exacerbate the shortage of street parking in the area, to the detriment of highway safety and amenity. The Leicestershire County Highway Authority has not commented on the application and has referred the application to its Standing Advice.

The amended plans make provision for three off-street parking spaces to the front of the dwelling. This is in compliance with the standards of the Highway Authority for a dwelling of this size. The application site is also situated within walking/cycling distance of the town centre and university campus and is close to a bus route. The occupiers of the property would not, therefore, be solely reliant on the use of a car to meet daily needs.

To refuse a planning application on highway safety grounds it must be demonstrated that there is severe harm caused by the proposal. The amended proposal provides off-street parking in compliance with the County Highway Authority's adopted guidance and the site benefits from acceptable public transport links. On-site cycle parking could be provided with the rear garden of the property.

It is pertinent to note that Planning Inspectors have accepted HiMOs in Loughborough where there is substandard or no car parking, because of the proximity to local services, schools and employment. For example, in allowing the appeal at 76 Hermitage Road, the Inspector noted the property was to be occupied by up to 6 persons and considered a single parking space to be adequate (Ref P/17/0072/2). It is also relevant that in allowing the HiMO appeal at 94 Hermitage Road where one space was provided and room for a

second space was available, the Inspector considered that the second space was unnecessary and would be damaging to the character and appearance of the street (Ref P/16/0845/2).

Having regard to the above, it is considered that the proposal accords with the National Planning Policy Framework and saved Policy TR/18 of the adopted Local Plan and that severe harm as described in Paragraph 109 of the NPPF would not be caused by the development.

#### Other matters

Concern has been raised regarding drainage matters and specifically the location of a manhole to the rear of the dwelling. The single storey rear extension would cover this manhole. However, this is not a planning issue and would be a matter for Severn Trent and the Building Regulations Legislation.

Objectors have also raised concern regarding the potential for increased cooking odour levels arising from the increased occupancy of the dwelling. This property would remain within residential use and the type of food which may be cooked within a private residential kitchen is not a material planning consideration.

#### **Conclusion**

Decisions on applications need to be made in accordance with the adopted development plan policies unless material considerations indicate otherwise.

The main issue to be considered in this case is the impact of the provision of additional bedrooms at the property, design, the impact on residential amenity and highway safety.

Whilst it is acknowledged that a large extension is proposed, the design of the amended application is considered acceptable in design terms and would comply with Policies CS2, EV/1 and H/17 and the advice contained within the Leading in Design SPD and the House Extensions SPG. Only the side extension would be visible from the street scene, and, overall it is not considered that the proposal would cause significant harm to visual amenity and the character of the area.

With regards to neighbouring amenity, the development complies with the provisions of policies CS2, EV/1 and H/17 along with the advice given in the Leading in Design SPD and House Extensions SPG with regards to loss of light, privacy and outlook. Whilst concerns have been raised with regards to community imbalance and noise and disturbance, the dwelling has a lawful use as a C4 HiMO for 3-6 people, which is a significant consideration in this case. Given this context and for the reasons set out in the report above, is not considered that there are sufficient grounds to justify a reason for refusal on neighbouring amenity grounds.

The development provides parking in accordance with Policy TR/18 and the minimum standards of the Highway Authority. It is therefore not considered that the development would have an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Accordingly it is recommended having regard to the above considerations that planning permission is granted conditionally.

**RECOMMENDATION:**

Grant Conditionally

- 1 The development, hereby permitted, shall be begun not later than 3 years from the date of this permission.  
REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:  
1808.30 Rev B - Proposed Elevations and Floor Plan  
1808 Rev A - Site Location and Block Plan  
Planning Application Form received on 7th December 2018  
REASON: To define the terms of the planning permission.
- 3 The facing materials to be used in the construction of the new works hereby permitted shall match as closely as possible those of the existing building.  
REASON: To ensure the satisfactory appearance of the completed development.
- 4 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking and re-enacting that Order, with or without modifications), no openings or windows shall be inserted in the southern elevation of the single storey rear extension hereby approved.  
REASON: To prevent undue overlooking of nearby dwellings, in the interests of the privacy of nearby residents.
- 5 No occupation of the development shall take place until such time as the existing dropped kerb to the front of the dwelling has been extended, and the parking facilities shown on drawing no.1808.30 Rev B have been completed, surfaced in a permeable hard bound material and made available for use. Thereafter, the parking facilities shall not be obstructed in any way that would prevent such use.  
REASON: To provide off-street parking, in the interests of road safety.
- 6 Within two months of the commencement of development, a scheme showing full design details of the bin storage facilities for the development shall be submitted in writing to the local planning authority for approval, and no occupation of the development shall take place until the bin storage facilities have been provided in accordance with the agreed details. The bin storage areas shall thereafter be maintained and retained at all times thereafter.  
REASON: to ensure satisfactory bin storage is provided the interests of visual and residential amenity.



The following advice notes will be attached to a decision

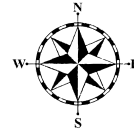
- 1 DEVELOPMENT PLAN POLICIES RELEVANT TO THIS DEVELOPMENT - Policies CS2, CS16 of the Charnwood Local Plan (2011-2028) Core Strategy, Policies EV/1, TR/18 and H/17 of the Borough of Charnwood Local Plan and the provisions of the National Planning Policy Framework have been taken into account in the determination of this application. The proposed development complies with the requirements of these policies and there are no other material considerations which are of significant weight in reaching a decision on this application.
- 2 Planning permission has been granted for this development because the Council has determined that, although representations have been received against the proposal, it is generally in accord with the terms of the above-mentioned policy/ies and, otherwise, no harm would arise such as to warrant the refusal of planning permission.
- 3 The provisions of the Party Wall Act 1996 may apply in relation to the boundary with the neighbouring properties at Nos. 5 and 9 Derwent Drive. A Solicitor or Chartered Surveyor should be able to give advice about whether and how the proposed work falls within the scope of this Act.
- 4 All works within the limits of the highway with regard to access shall be carried out to the satisfaction of the County Council's Highway Manager on 0116 305 0001.
- 5 Provision should be made to make sure that all existing drainage systems continue to operate effectively.
- 6 The decision has been reached taking into account paragraph 38 of the National Planning Policy Framework and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 7 The applicant is advised to contact the Borough Environmental Health Officer for advice on noise insulation measures.



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Reference No:

P/18/2469/2

Location:

7 Derwent Drive, Loughborough, Leicestershire, LE11 3RJ



### Item No. 3

#### Application Reference Number P/18/2482/2

<b>Application Type:</b>	Full	<b>Date Valid:</b>	10/01/2019
<b>Applicant:</b>	Ms A Bailey		
<b>Proposal:</b>	Change of use from House in Multiple Occupation (Use Class C4) to a large House in Multiple Occupation (sui generis).		
<b>Location:</b>	133 Knightthorpe Road Loughborough Leicestershire LE11 5JR		
<b>Parish:</b>	Loughborough	<b>Ward:</b>	Loughborough Storer
<b>Case Officer:</b>	Deborah Liggins	<b>Tel No:</b>	01509 634733

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This item is referred to Plans Committee at the request of Councillor Tillotson who expresses concerns as the neighbours are already experiencing considerable amounts of noise from this property, which she considers would be exacerbated by the proposal and is also concerned that parking in the area is already difficult.

#### Description of the Application Site

The application property is a detached hipped roof bungalow to the north side of the street, close to the junction with Milton Street. The property has a gravelled frontage and driveway and a 1m high iron railing fence to the highway boundary. Car parking for 1 vehicle is available on the site frontage with 2 tandem spaces being available to the side of the dwelling. The property is a recognised C4 HiMO with 6 bedrooms and the use pre-dates the introduction of the Article 4 Direction in February 2012.

#### Description of the Proposals

The proposal is to use an attic store room as an additional bedroom, bringing the total number of bedrooms within the property to 7, which would amount to a change of use from C4 to a sui-generis 'large HiMO' use. The application is for the change of use only and does not include any external alterations.

The control over who the property is let to (whether to students or professional people) is outside the remit of planning control and is a matter for the owner/letting agency.

The following Development Plan policies and guidance are relevant in the assessment of an application for the development:

#### Development Plan Policies

##### Charnwood Local Plan 2011-2028 Core Strategy

Policy CS1 – Development Strategy sets out the development strategy and directions of growth for the Borough.

Policy CS2 – High Quality Design requires new developments to respect and enhance the character of the area, protect the amenity of people who live and work nearby and function well and add to the quality of the area.

Policy CS3 – Strategic Housing Needs seeks to manage the delivery of new homes, making provision for an appropriate mix of types, tenure and sizes of homes, having regard to identified housing needs and the character of the area.

Policy CS4 – Houses in Multiple Occupation seeks to support the well-being, character and amenity of our communities by managing the proportion of houses in multiple occupation. It states that Class C4 dwellings will be prevented where they, either in themselves, or cumulatively with other HiMOs damage the social/physical character and amenity of a street or residential area or generate noise and disturbance which is detrimental to the amenity of the street or residential area or generate a demand for on-street car parking that would prejudice the safe operation of the highway or cause detriment to amenity.

Policy CS16 – Sustainable Construction and Energy encourages sustainable design and construction and the provision of renewable energy including supporting developments that reduce waste, provide for the suitable storage of waste and allow convenient waste collections.

#### Borough of Charnwood Local Plan

Policy EV/1 – Design seeks to ensure a high standard of design for developments, which, inter alia, respects and enhances the local environment, is of a design, layout, scale and mass compatible with the locality and utilises materials appropriate to the locality.

Policy TR/18 – indicates that planning permission will not be granted for development unless off-street parking for vehicles, including cycles, and servicing arrangements are included to secure highway safety and minimize harm to visual and local amenities. The policy promotes standards that would require 3 parking spaces for a 4 or more bedroom dwelling, although it states that this will be used as the starting point in assessing the level of provision and represent the maximum level. The quantity of parking allowed should reflect the proposed use and the location of development, the availability of public off - street parking; the current or potential accessibility by non-car modes and the scope for practical measures to significantly reduce the use of private car trips to and from a site.

#### **Other material considerations**

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

The National Planning Policy Framework (NPPF) is a material consideration in planning decisions. The Framework contains a presumption in favour of sustainable development and defines 3 roles a development must fulfil in order to be sustainable:

- An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places to support growth and innovation

- A social role – supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built development with accessible local services
- An environmental role – contributing to protecting and enhancing our natural, built and historic environment.

The Framework does not make specific reference to extensions to HiMOs but includes guidance which is relevant to this application as follows:

Paragraph 8 identifies the economic and social roles of the planning system, both to build a strong responsive economy by ensuring land (and presumably buildings) are available in the right place at the right time, and supporting the health of the community by ensuring housing for present needs that has a high quality built environment, which encompasses social and cultural well-being.

The Framework requires that planning decisions should, inter alia, create places that are safe, inclusive and accessible which promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other, are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

In considering development proposals, it should be ensured that sustainable transport modes can be taken up, and that safe and suitable access to the site can be achieved for all users. Development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Planning decisions should ensure that developments (inter alia) create places that promote health and well-being, with a high standard of amenity for existing and future users.

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Paragraph 108 requires that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

#### The Leicestershire Highways Design Guide (2018)

This is a guide for use by developers and published by Leicestershire County Council, the local highway authority, and provides information to developers and local planning authorities to assist in the design of road layouts in new development. The purpose of the guidance is to help achieve development that provides for the safe and free movement of all road users, including cars, lorries, pedestrians, cyclists and public transport. Design elements are encouraged which provide road layouts which meet the needs of all users and restrain vehicle dominance, create an environment that is safe for all road users and in which people are encouraged to walk, cycle and use public transport and feel safe doing so; as well as to help create quality developments in which to live, work and play. The document also sets out the quantum of off-street car parking required to be provided in new housing development.

## Housing Supplementary Planning Document (HSPD) December 2017

A Housing Supplementary Planning Document (as amended) was adopted in December 2017 which provides guidance when dealing with Houses in Multiple Occupation proposals in the context of adopted Core Strategy Policy CS4.

Section 4 of the Housing SPD provides guidance for assessment of applications that propose small or large houses in multiple-occupation. Small HMOs are defined as shared houses or flats occupied by between 3 and 6 unrelated individuals who share basic amenities and large HMO's are for more than 6 occupiers and are a 'sui generis' use. i.e. they do not fall into any existing class in the Town and Country Planning (Use Classes) Order. These proposed changes of use do not benefit from being 'permitted development' in Loughborough due to the Article 4 Direction that was introduced in 2012.

The SPD provides a methodology (at HSPD11) for assessing the concentration of Houses in Multiple Occupation against the criteria of Core Strategy Policy CS4 as part of understanding the potential for cumulative impacts. The methodology assesses the concentration of HMOs within 100m of the application site as a proportion of the total number of residential dwellings. Halls of Residence and purpose built student accommodation will not be included in the calculation. However, any Halls of Residence and purpose built accommodation will be considered as part of the overall decision making process in terms of their impacts.

The SPD accepts that HiMOs help to meet local housing requirements and can be an important type of accommodation for a range of people including those on low incomes and young people (para 4.1) and it also repeats the objectives of Core Strategy Policy CS4 that seeks to support the well-being, character and amenity of local communities by managing the proportion of HiMOs.

The SPD also provides guidance in respect of the Policy CS4 criteria for considering the potential impact on the social and physical character and amenity (HSPD12), amenity space (HSPD 13), noise insulation (HSPD 14) and parking (HSPD 15).

The Council has used a threshold of 20% in decision making and therefore changes of use from Class C3 dwellings to Class C4 dwellings have usually been resisted in principle where the percentage of houses in multiple-occupation exceeds 20% in a particular area. This approach has been accepted in appeal decisions. The calculation of the household percentage is the subject of a methodology specified in the SPD that uses data held by the University, electoral registers, the HMO register and third party data and it is considered that collectively, this gives the best indication available of the relevant household situation and the most accurate picture of local balance and amenity.

## The Crime and Disorder Act 1998

This places a duty on the local planning authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on community safety is therefore a material consideration in the determination of planning applications.

## National Planning Practice Guidance (PPG)

The National Planning Practice Guidance (PPG) reinforces and provides additional guidance on the policy requirements of the Framework and provides extensive guidance on design and other planning objectives that can be achieved through getting good design. These include the consideration of local character, landscaping setting, safe, connected and efficient streets, crime prevention, security measures, access and inclusion, efficient use of natural resources and cohesive and vibrant neighbourhoods.

## Article 4 Direction

Loughborough is subject to an Article 4 Direction, put in place in February 2012, and which removes the rights to change the use of Class C3 dwellings to Class C4 Houses in Multiple Occupation in Loughborough. These are dwellings where between 3 and 6 unrelated persons, sharing basic amenities could occupy a property without the need for planning permission - whereas, the Article 4 Direction limits this to occupation by a family or up to 2 unrelated persons living as a single household. Planning permission is now required for occupation of dwellings by more than 2 unrelated persons.

## **Relevant Planning History**

P/07/0655/2 – Erection of rear extension to bungalow and alterations to roof, including side dormer to form first floor accommodation – granted conditionally:

P/07/1988/2 – Erection of a conservatory to the rear of the dwelling –granted conditionally.

## **Responses of Statutory Consultees**

The Council's Environmental Health Officer has some concerns about the proposal in terms of the number of adults to be accommodated i.e. 7. This is generally greater than that of an average family group and there is therefore the potential for increased disturbance to neighbouring residents which should be acknowledged. A review of its records also reveals that there appears to have not been any complaints made to the department about noise or nuisance from neighbours. Environmental Health Officers are to contact the applicant to clarify waste storage and collection arrangements.

The Council's Housing Standards Officer has no objection to the proposed change of use from a licencing point of view.

## **Other Comments Received**

Councillor Tillotson does not support the application stating that the neighbours are already experiencing considerably more noise from this property than would be the case if it were occupied by a family. Parking in the area is already difficult and more people at the house would exacerbate this.

No comments from neighbours have been received.

## Consideration of the Planning Issues

The main issues to be considered in the determination of this application are:

- Principle of Development
- The effect of the proposed development in terms of the Community Balance and the Character of the Area
- Anti-social behaviour and Noise and Disturbance
- Bin Storage
- Highway Safety.

The starting point for decision making on all planning applications is that they must be made in accordance with the development plan unless material considerations indicate otherwise. Policies in the adopted Core Strategy and the saved policies in the Charnwood Local Plan are therefore the starting point for consideration.

### The Principle of the Development

The supporting text to Policy CS4 states that HiMOs provide accommodation for a group of tenants who do not live together as a family and who share basic amenities such as a kitchen and bathroom facilities, but have separate bedrooms. It acknowledges that HiMOs help to meet local housing requirements and can be an important type of accommodation for a range of people including those on low incomes and young people. In Loughborough, a large number of HiMOs are occupied by students in further and higher education.

The commentary goes on to state that, whilst the Council values Loughborough University and Loughborough College and the significant economic, social and cultural contributions the student population brings to Loughborough, a negative impact has been experienced in some neighbourhoods because of the over concentration of HiMOs. These impacts have affected some community facilities, the character and appearance of the area and caused disturbance and parking problems. In response to this, the Council has developed a strategy for managing the proportion of HiMOs in Loughborough, particularly where it is demonstrated that there are associated adverse impacts.

The application site is within the main urban area and, whilst the principle of development is acceptable as the property remains in residential use and would contribute to the mix of tenures of homes in the area (thus complying with Policy CS3), the proposal needs to be considered in relation to relevant policies and detailed planning considerations as assessed below.

### The effect of the proposed development on the local character and amenities of the area

The balance of the local community is an issue that is addressed in the adopted Housing SPD through the use of a threshold to assess whether there is already a high concentration of HiMOs in a specified area. It seeks to resist further HiMOs (small or large) where there is already 20% or more within a 100m radius of the application site.

The 20% threshold allows for consistency in decision-making on proposals for changes of use to HiMOs and has been recognised by appeal inspectors as the level above which the problems associated with higher concentrations could occur.



Recent appeal decisions relating to Class C4 changes of use at Ashleigh Drive, Grange Street, Derby Road, Park Road, Frederick Street, Ashby Road, and Goldfinch Close (all within the built-up area of Loughborough) accept this threshold approach and attach weight to its use. The latter two appeal decisions were made since the Housing SPD was first adopted in May 2017.

The number of HiMOs in the local area within which the application site is located, based on the 100m radius methodology, is just 1 out of a total of 64 dwellings. This equates to 1.6% of the residential stock. The figure is well below the adopted threshold. However, there are 6 other HiMOs close by, but outside of, the 100m radius circle. Even taking these into account, the saturation of 5% would be well within the adopted guidance. It is therefore considered that the proposal accords with Policy CS4 of the Core Strategy, the adopted SPD on Housing and the NPPF in terms of the concentration of small or large HiMOs in the area.

It is acknowledged that the threshold is one aspect of the assessment, which is not confined to the mathematics of the case. There are other considerations which need to be assessed and a judgement reached as to whether the level of harm that would be caused, whether individually or cumulatively, to support the refusal of planning permission or whether the impact would be limited so as to indicate that planning permission should be granted. These are discussed below.

#### Anti-social Behaviour & Noise and Disturbance

The adopted Housing SPD acknowledges that where there is a high proportion of HMOs it can often result in a higher incidence of anti-social behaviour, particularly at unsociable hours, and increases in crime and fear of crime. Information from the Borough Council's Neighbourhoods service shows that over the past year, there have been 5 recorded incidents on Milton Street relating to anti-social behaviour. Whilst it is not possible to say if these incidents were directly attributable to student behaviour, it suggests that existing residents already experience a small degree of disturbing incidents but which may not affect their day to day domestic lives. It is therefore considered that the proposal, which is already a small HiMO and would increase by one occupant under the provisions of this application, would not be likely to lead to increases in anti-social behaviour, crime or fear of crime which would be damaging to the living conditions of local residents and the amenity of the local area.

In addition, it is acknowledged that HiMOs can often be noisier than a family home because of the number of people who are living independently within the property which can adversely affect the amenity of neighbouring properties. In this case, the proposed 7 adult HiMO is likely to be more intensively occupied than a large family occupying it as a Class C3 dwelling. However, the use of the property is as a small HiMO which can lawfully be occupied by up to 6 persons and the increase in noise from one additional occupier is not likely to be significant.

The property is a detached dwelling and there would therefore be no direct sound transference with the neighbouring dwellings, however, this is no absolute guarantee that there would not be additional noise emanating from the property from open windows or the use of outside spaces. Given that the property is to remain in residential use and already

has use as a house in multiple occupation for 6 tenants, it is unlikely an additional person at the dwelling would generate significant additional noise. The Council's Environmental Health department is unaware of any complaints regarding noise at this dwelling although it is acknowledged that Councillor Tillotson has concerns about noise.

To conclude, whilst it is considered that there may be instances where a clash of lifestyles or behaviour may cause disturbance to adjoining occupiers, it is considered unreasonable to assume this will happen to an extent greater than might be the case with other types of residential occupation or the current lawful use. Conflict that may occur in individual cases is not a matter that can easily be expressed as a planning objection. Such occurrences may be dealt with by other forms of regulation. HiMO properties may also be occupied by professionals just as easily as students or other persons sharing the property. Having regard to the above, it is concluded that there is insufficient justification to refuse the application on the basis of a perceived increase in noise and disturbance and the impact on the character and amenity of the area in general. It is considered that the proposal therefore accords with Policies CS2 and CS4, saved Policy EV1 and the adopted SPD.

#### Bin storage

In terms of amenity space for the storage of refuse/recycling containers, there is adequate provision for the storage of bins within the rear garden which would be secure, unobtrusive and accessible to residents. The property has a frontage which could satisfactorily accommodate bin storage in a location which is accessible to refuse collectors. Accordingly, in terms of storage of refuse/recycling storage and the potential for its negative impact, the proposal accords with HSPD12 and 13 and CS16 of the Core Strategy.

#### Highway safety.

The Council has adopted standards which, under Policy TR/18 would require the provision of 3 off-street car parking spaces to serve dwellings with 4 or more bedrooms. The submitted plans show the provision of 3 car parking spaces, although it is acknowledged that it may not always be convenient for occupiers to tandem park. The proposal therefore meets LCC parking standards. It is also important to consider that the site is situated within walking or cycling distance of the town centre, university and close to local shops and bus services and therefore, there is no essential need for occupiers of the dwelling to use a car to access services and facilities. However, the potential intensification in the use of the house could generate additional vehicular activity which could result in increased demand for car parking but this could be accommodated in nearby streets which have unrestricted on-street car parking. It is therefore considered that the proposal would not lead to increased indiscriminate parking within the street which could cause dangers to highway users, including pedestrians.

To refuse a planning application on highway safety grounds it must be demonstrated that there is 'severe harm' caused by the proposal in accordance with para 109 of the NPPF. For the reasons set out above, it is not considered that such harm would arise and a highway reason for refusal cannot be substantiated.

## Conclusion

Decisions on applications need to be made in accordance with the adopted development plan policies and the material considerations that support them, including in this case the adopted SPD on Housing.

For the reasons given above, it is considered that the proposed change of use would not result in an overconcentration of HiMOs in the area or result in further significant community imbalance. Furthermore the proposal would not result in harm to the residential character and amenity of the area. The proposal would therefore accord with Policies CS2, and CS4 of the Core Strategy, and Policies EV/1 of the Borough of Charnwood Local Plan and the Housing SPD and TR/18 of the Borough of Charnwood Local Plan.

## RECOMMENDATION:

Grant Conditionally

- 1 The development, hereby permitted, shall be begun not later than 3 years from the date of this permission.  
REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:  
386A - Issue No. 1 - Proposed floor plans  
386A - 1:1250 scale site location plan  
REASON: To define the terms of the planning permission.

The following advice notes will be attached to a decision

- 1 DEVELOPMENT PLAN POLICIES RELEVANT TO THIS DEVELOPMENT - Policies CS2, CS3, CS4 and CS16 of the Charnwood Local Plan (2011-2028) Core Strategy) and Policies EV/1 and TR/18 of the Borough of Charnwood Local Plan have been taken into account in the determination of this application. The proposed development complies with the requirements of these policies and there are no other material considerations which are of significant weight in reaching a decision on this application.
- 2 Planning permission has been granted for this development because the Council has determined that, although representations have been received against the proposal, it is generally in accord with the terms of the above-mentioned policy/ies and, otherwise, no harm would arise such as to warrant the refusal of planning permission.
- 3 Discussion with the applicant to seek an acceptable solution was not considered necessary in making this decision. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraph 38) and in

accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.

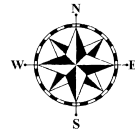
- 4 In order to arrange for the delivery of the necessary equipment for participation in the refuse and recycling service and to ensure that the properties receive a collection service as appropriate, please contact Environmental Services on 01509 634538 or [recycle@charnwood.gov.uk](mailto:recycle@charnwood.gov.uk), before the first property is completed.



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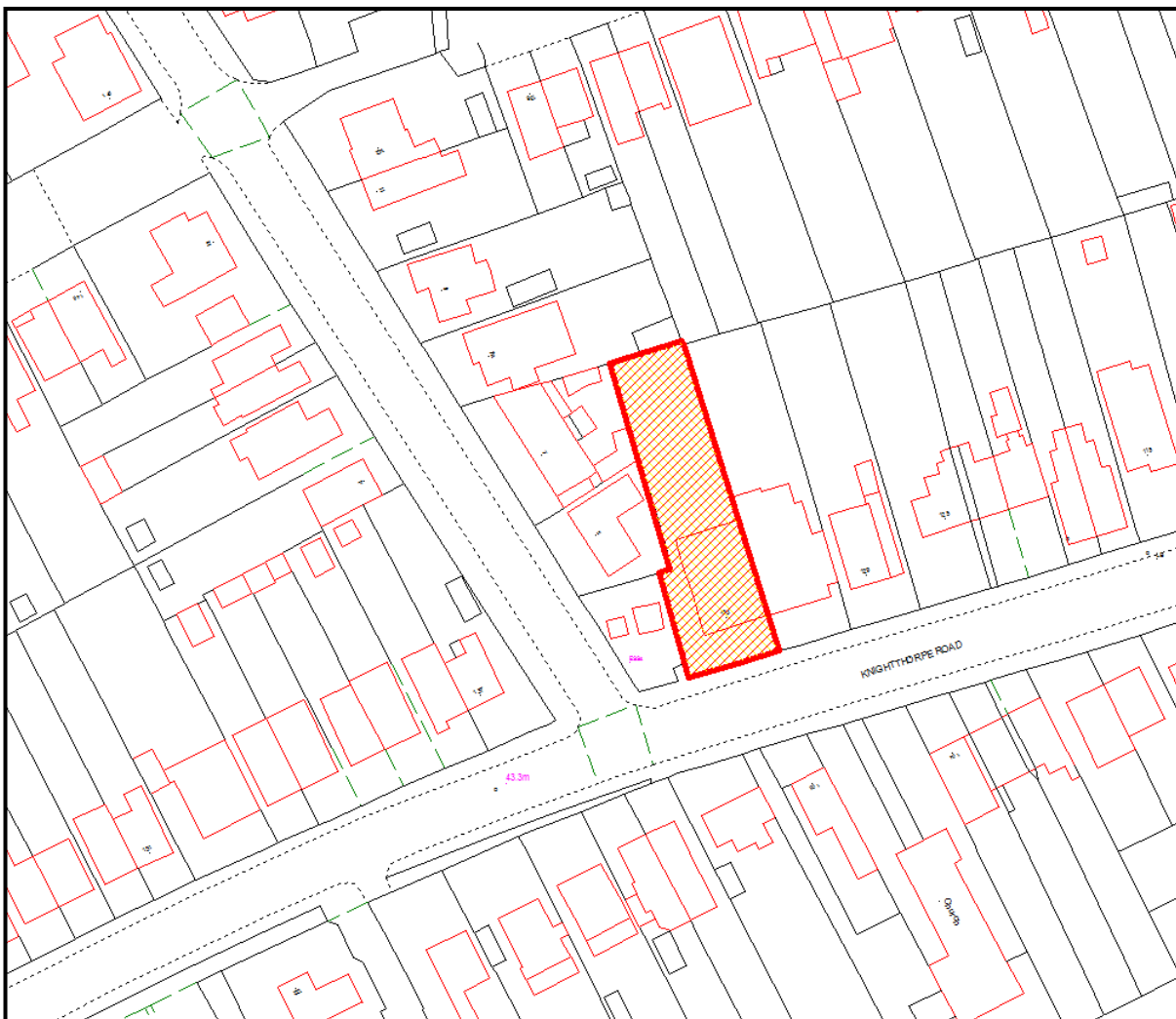


Reference No:

P/18/2482/2

Location:

133 Knightthorpe Road, Loughborough, Leicestershire, LE11 5JR



## Item No. 4

**Enforcement Case Reference No:** E/16/0434

**Developer:** Mr Duncombe  
**Breach:** Breach of condition 11 attached to planning permission P/15/2236/2  
**Location:** Wreake Valley Craftsmen, 25 Rearsby Road, Thrussington, Leicestershire, LE7 4UD  
**Parish:** Thrussington  
**Case Officer:** Sarah Hallam  
**Ward:** Wreake Villages  
**Tel No:** 01509 634736

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This item is referred to Plans Committee at the request of Councillor Poland and Councillor Grimley under the Constitution's rules for enforcement case ward referrals. They consider the history of the case, the significant public interest of the site and the fact the Plans Committee has previously considered issues on the site, warrants its consideration by the Plans Committee.

### Site Location and Description

The site is located at the southern entrance to the village from Rearsby and is within the Limits to Development and outside, but adjacent to, the Conservation Area as defined in the Borough of Charnwood Local Plan. The site is also located 80m to the south west of the Holy Trinity Church, a grade II\* listed building. The site is currently occupied by factory premises which pre-dates 1948 and makes items of timber household furniture from processing the raw material to assembling the end product. The site currently comprises a large workshop building within the central area of the site, which replaced a number of smaller workshops and temporary storage buildings following the grant of planning permission (P/15/2236/2) in February 2016. A more historic range of brick-built two storey buildings run parallel to the roadside and the northern site boundary. The site slopes from the south to the north with the rear of the site being approximately 2.5m higher than Rearsby Road.

To the north east, the site is bounded by Rearsby Road where there is a 2m wide grass verge and low hedge. The south eastern boundary runs alongside a driveway leading to backland dwellings (31, 33 and 35 Rearsby Road) and is bound by a mature conifer hedge for the first part of the driveway and a close board fence along the rest of the driveway. To the west of the site is no. 23 Rearsby Road and its private rear garden.

### Description of the Unauthorised Works

In 2016 planning permission (P/15/2236/2) was granted for the demolition of buildings on the site and erection of extensions for the existing industrial use on the site. As part of this permission a dust extraction unit, located to the front of the site, was also granted permission. Condition 11 was attached to this permission which states;

*"Prior to the installation of any fixed mechanical plant at the site a detailed acoustic assessment must be supplied to, and approved by the local planning authority. The assessment shall examine noise levels generated by said item(s) of plant, how these*

*would affect nearby residential amenity and specify, if appropriate, noise reduction measures to achieve a predicted level equal to or below the measured background (LA90) level at any adjacent dwellings. This acoustic assessment would require to be signed off by the LPA and the findings of such incorporated within the scope of the development as constructed.*

*REASON: For the protection of residential amenity in the vicinity of the site.”*

This condition was partially discharged by permission P/16/1528/2.

Due to concerns about the noise caused by the dust extraction unit a further application (P/17/1543/2) was submitted and subsequently granted planning permission by the Committee on 7th December 2017 for the erection of sound proof boarding around the existing dust extraction unit. In granting planning permission the Committee resolved to receive an update on the effectiveness of the mitigation measures. On 5th April 2018 an update report was provided and it was advised that to ensure a fair and reasonable approach to this matter and given the sensitivity of this case the Council was to instruct an independent noise consultant to undertake an assessment of the extraction equipment to verify the results that had already been collected.

Two independent noise assessments were undertaken on behalf of the Council to establish the current noise level of the dust extraction unit. One assessment was taken during operational hours of the business and the other was undertaken at night when extraneous noise was at its lowest. The initial noise assessment taken during business operation times concluded that the dust extraction plant was found to be 41dB(A) and the second assessment taken at night showed the specific sound level from the dust extraction plant was 42-43 dB(A) which is 1-2dB above the background (LA90) of 41dB(A).

Following receipt of these results the Council took advice in respect of the wording of the condition and the requirements of the condition. It was concluded that when assessing the wording of this condition there are 4 clear components:

1. It required an acoustic assessment to be provided prior to installation of fixed mechanical plant – this was provided in application P/16/1528/2;
2. It required the acoustic assessment to specify, if appropriate, noise reduction measures to achieve a predicted level equal to or below the measured background (LA90) level at adjacent dwellings – the report submitted in application P/16/1528/2 did contain noise reduction measures;
3. It required the acoustic assessment to be approved by the LPA – the report was approved under application P/16/1528/2;
4. It required the findings of the acoustic assessment to be incorporated within the scope of the development as constructed – at present the fitting of damping sheets to the metal panels of the filter unit is the final measure outstanding but this has only partially been implemented as three sides of the unit still require damping sheets to be installed.

Condition 11 does not specifically require the dust extraction plant to be at or below a certain noise level but actually requires that “The assessment shall examine noise levels generated by said item(s) of plant, how these would affect nearby residential amenity and specify, if appropriate, noise reduction measures to achieve a predicted level equal to or below the measured background (LA90) level at any adjacent dwellings”. Therefore from a planning enforcement perspective, if the noise level exceeds the LA90 this does not breach this condition so long as all the noise reduction measures have been carried out. A breach of this condition can only occur if the findings detailed within the acoustic report have not been fully undertaken.

The final noise reduction measure that has not been fully undertaken is the installation of the damping sheets. Mr Duncombe was, more recently, made aware of this issue and given the opportunity to install the damping sheets. On the side elevation facing No. 31 Rearsby Road the damping sheets have now been installed but on the other sides of the unit no damping sheets have been installed and therefore full compliance with Condition 11 has not been achieved.

It has been questioned why the damping sheets have not been installed on the side elevations which face the building, the road and the side facing into the site. Mr Duncombe has advised that these elevations are more difficult to access, as a scissor lift is required to access these areas due to the height of the structure and the fan housing and containers restrict clear access for this lift. In addition the dust extraction unit has maintenance doors on the side elevation facing into the site and free access to the hopper is required at all times. Due to these constraints Mr Duncombe is unwilling to install the damping sheets to these elevations.

As damping sheets have not been installed on all sides of the dust extraction unit full compliance with Condition 11 has not been achieved and therefore this is the matter for consideration in this report.

## **Development Plan Policies**

### Charnwood Local Plan (2011-2028) Core Strategy

Policy CS2 – High quality design requires new developments to respect and enhance the character of the area, protect the amenity of people who live and work nearby and function well and add to the quality of the area.

### Borough of Charnwood Local Plan (adopted 12th January 2004)

Policy EV/1 – Design seeks to ensure a high standard of design for developments, which, inter alia, respects and enhances the local environment, is of a design, layout, scale and mass compatible with the locality and utilises materials appropriate to the locality.



## **Other material considerations**

### National Planning Policy Framework (NPPF)

Paragraph 55 states planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

Paragraph 58 states that effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.

Paragraph 127(f) states that planning decisions should ensure that developments achieve a high standard of amenity for existing and future users

### The Crime and Disorder Act 1998

The Crime and Disorder Act 1998 places a duty on the local planning authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on community safety is therefore a material consideration in the authorisation of enforcement proceedings.

### Human Rights Act 1998

The issue of human rights is also a material consideration in the determination of planning applications and enforcement issues. Article 8 of the Human Rights Act 1998 requires respect for private and family life and the home while Article 1 of the First Protocol provides an entitlement to peaceful enjoyment of possessions. However, these rights are “qualified” and it is necessary to consider whether instigating a prosecution would interfere with the developer’s human rights. If it would, the Committee must decide whether any interference is in accordance with the law, has a legitimate aim and is proportionate.

The impact on the human rights of the developer and their business must be balanced against the public interest in terms of protecting the environment and the rights of other people living in the area. In this case, the technical breach of full compliance with Condition 11 not being achieved and the noise level of the unit being 1-2 dB(A) above the background (LA90) of 41 dB(A) is not considered to have a significant adverse impact upon the amenity of the occupiers of No. 31 because an increase or decrease of 3 decibels is the minimum perceivable by most adults to any change in loudness under normal conditions.

## **Relevant Planning History**

P/15/2236/2 - Demolition of two industrial buildings and office block. Erection of 2 extensions to industrial unit (Class B1c) and change of use of first floor of existing building from industrial (Class B1c) to offices (Class B1a). Formation of access route and car parking to rear of site and new vehicular access onto Rearsby Road. GRANTED

P/16/1528/2 - Discharge of Conditions 5, 6, 11, 12 and 13 of P/15/2236/2. Window details, obscure glazing, sound Assessment, materials, screen details. GRANTED

P/17/0560/2 - Non-material amendment to P/15/2236/2 - for windows to be fixed closed on phase 1 building, remove timber cladding from compound to front of site, paint extraction unit brown, add lagging to ducting, install additional ducting between buildings, add flue to polish shop, add wood burner chimney, carry out additional landscaping and affix external lighting to exterior of buildings. WITHDRAWN

P/17/1543/2 - Erection of sound proof boarding around existing extraction unit. GRANTED

P/17/1544/2 - Retention of windows in side elevation of building and colour coating of the extraction and ventilation unit, lagging installed on the ducting pipe and ducting over the roof between buildings, wood burning flue and lighting currently installed on the building; to not install the timber cladding on building as approved in application. GRANTED

## **Responses of Statutory Consultees**

### Borough Council's Environmental Health Department

The Council's Environmental Health Officer has advised that following the installation of the damping sheets to the elevation that faces No. 31 they are of the opinion that subjectively the noise from the dust extraction plant does seem less noticeable which may be due to the fact that the tonal element of the noise (at 400 HZ) has been reduced. A reduction of around 1 dBA was measured but this assessment was undertaken on the driveway next to the patio of No. 31, and was therefore slightly closer to the noise source than previous measurements. It was however noted that the tonal element was still present towards the entrance to the driveway. The Council's Environmental Health Officer has also advised that an increase or decrease of 3 decibels is the minimum perceivable by most adults to any change in loudness under normal conditions.

### **Other Comments Received**

Concern has been raised by neighbouring residents with the planning enforcement team, regarding the noise levels of the dust extraction unit.

A letter has been sent from the planning enforcement team to all residents making them aware of the recommendation to take no further action and the matter being considered by the Plans Committee. One resident has responded and considers that until all the damping sheets have been installed this case should not be closed.

### **Consideration of the Planning Issues**

The breach of planning control relates to the developer not fully complying with Condition 11 attached to planning permission P/15/2236/2 which required the implementation of the noise reduction measures identified in the approved noise assessment report. The imposition of this condition on the original planning permission was considered to be necessary and reasonable to protect residential amenity in the vicinity of the site. The

developer has carried out all of the identified measures except that the damping sheets have not been fitted to all elevations of the dust extraction unit.

The noise assessment report submitted in the discharge of conditions planning application P/16/1528/2 was approved on 20 September 2016 and within that report a number of noise reduction measures were required to be undertaken seeking to achieve a predicted noise level equal to or below the measured background (LA90) level at adjacent dwellings. All the requirements except for the fitting of the damping sheets to three elevations of the dust extraction unit have been undertaken.

Condition 11 does not itself require a specific noise level to be achieved; rather, that the approved measures are to be implemented. If the damping sheets had been installed to all sides of the dust extraction unit then full compliance with the condition would have been achieved.

The Council needs to consider whether or not to take formal enforcement action to require the developer to comply fully with condition 11 and fit damping sheets to the remaining 3 sides of the unit. In doing so the Council must consider the reason for imposing the condition in the first place i.e. what it was the condition sought to protect/what impact it was to mitigate. The Council must also consider the level of harm the breach of planning control causes and to act proportionately as to whether further action should be sought. Such formal action would, in this case, be the service of a Breach of Condition Notice requiring the damping sheets be installed on the other elevations it is missing. As a matter of fact the local planning authority cannot require the removal of the dust extraction unit as it benefits from planning permission.

As discussed above the condition was imposed to protect residential amenity, it does not specify an actual noise level or a maximum noise level that the unit should operate at. However as a means of assessing the impact of the development on residential amenity and the reasonableness of taking formal action, it is considered appropriate to consider the current noise levels of the extraction unit from the independent assessments commissioned by the Council. As explained earlier two assessments were undertaken - one during operational hours of the business and the other was taken at night when extraneous background noise was at its lowest. The initial noise assessment taken during business operation times concluded that the dust extraction plant was found to be operating at 41dB(A) and the second assessment taken at night showed the specific sound level from the dust extraction plant was 42-43 dB(A) which is 1-2dB above the LA90 of 41dB(A). The Council's Environmental Health Officer has advised that an increase or decrease of 3 decibels is the minimum perceivable by most adults to any change in loudness under normal conditions.

Furthermore the Council's Environmental Health Officer advises that since the two noise assessments were undertaken, the installation of the damping sheets on the side elevation (south eastern elevation) of the dust extraction unit that faces No.31, and its outside patio area appears to have reduced the tonal element of the noise (at a frequency of 400 HZ) and provides a slight measurable improvement in noise levels experienced. This tonal element is however still audible towards the entrance to the driveway, which is adjacent to the side wall of No.31 but this elevation does not contain any window openings nor is there usable garden area for sitting out and relaxing in this area.

As the elevations of the dust extraction unit where the damping sheets have not been installed face towards the woodworking building (south western elevation), the main road (north eastern elevation) and into the site (north eastern elevation) it is considered unlikely, if damping sheets were installed on these elevations, that a change in noise levels will be audible in the patio area and rear garden of No.31 or the private amenity space of the other neighbouring residential properties.

In considering whether to take formal action it is firstly necessary to assess Condition 11 as to whether it is enforceable. In this instance it is considered that the condition is enforceable. The condition however does not require that the noise reduction measures required by the acoustic assessment report be maintained and/or retained in perpetuity. This should be considered when assessing whether to take formal action against the damping sheets not being installed on three sides of the dust extraction unit as at any time in the future any of the approved noise mitigation measures that have already been installed could fail, not be maintained or be removed and the Council would not have any control over this.

Paragraph 58 of the NPPF states that local planning authorities should act proportionately and that enforcement action is discretionary. The Council must be reasonable in the decision it makes fully considering the complainants concerns along with the developer's rights. On balance, taking the above assessment into account, which includes:

- the Environmental Health Officer's advice that an increase or decrease of 3 decibels is the minimum perceivable by most adults to any change in loudness under normal conditions.
- that the most recent noise assessment of the dust extraction unit was 1-2 dB above the LA90 of 41 dB(A)
- that the condition does not require a specific noise level to be achieved, and;
- that the condition does not require the noise mitigation measures to be maintained and/or retained in perpetuity

It is considered unlikely that the installation of the damping sheets on the three elevations that face away from the closest residential property will have an audible change in noise levels of the dust extraction unit experienced at No. 31 Rearsby Road.

## **Conclusion**

The condition was imposed to protect residential amenity in the vicinity of the site. The condition did not require a specific noise level to be achieved but the original assessment considered the background (LA90) to be 41dB(A). The most recent noise assessment indicates that the dust extraction unit is within 1-2 dB of the LA90. The Council's Environmental Health Officer has advised that an increase or decrease of less than 3 dB will not be perceivable by most adults

Therefore it is officers view that the purpose of the condition has been achieved and it would be not be reasonable, proportionate or necessary to require the 3 remaining sides of the unit to be fitted with damping sheets, particularly as the condition does not require the noise mitigation measures to be maintained or retained in perpetuity, does not require a specific noise level and in the Environmental Health Officer's opinion the installation of the missing damping sheets would not make a significant audible change in noise levels

due to these elevations facing away from the neighbouring property. Therefore in this instance, it is not considered reasonable for the local planning authority to take formal action and it is recommended that no further action be taken.

**RECOMMENDATION:-**

To take no further action for the following reason;

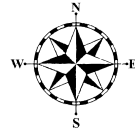
1. The requirements of Condition 11 attached to planning permission P/15/2236/2 have not been fully undertaken as the damping sheets, which the acoustic assessment that was approved pursuant to this condition recommended, have not been installed to all sides of the dust extraction unit but in not carrying out this final step it is not considered that there will be an audible change detectable by the human ear in noise level. In addition Condition 11 does not require that a specific noise level be achieved or that the noise mitigation measures be maintained and/or retained in perpetuity and therefore it is not considered reasonable for the Council to pursue this matter any further.



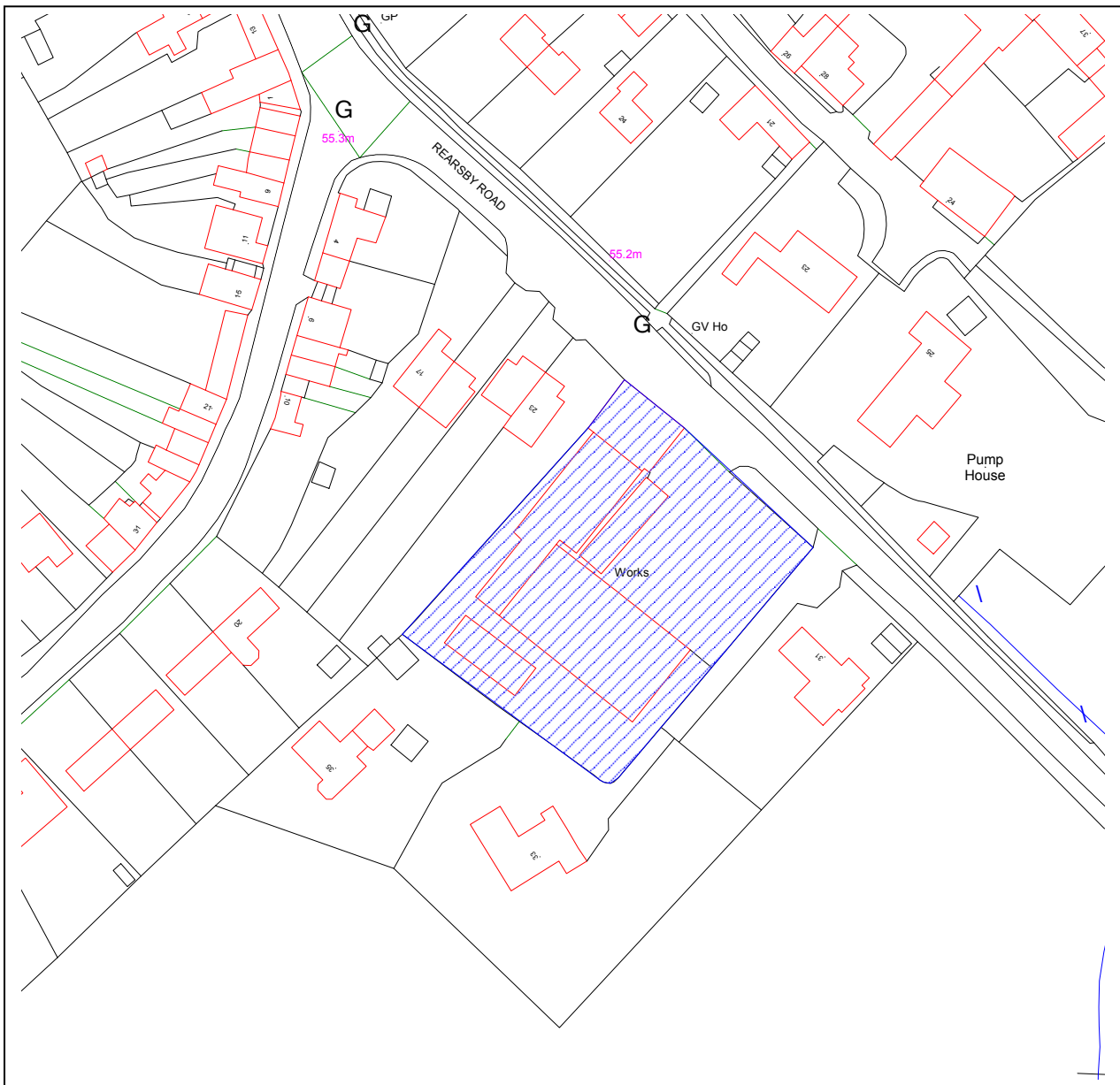
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**Reference No:** E/16/0434  
**Location:** Wreake Valley Craftsmen, 25 Rearsby Road, Thrussington  
**Scale:** 1:1250



## Delegated planning decisions made by Charnwood Borough Council since the last Plans Committee meeting

Application number	Application type	Location	Proposal	Decision	Decision date	Ward
P/18/0953/2	Full	3 Bradgate Road Anstey Leicestershire LE7 7AB	Demolition of garage and erection of detached two storey one bed dwelling to side of 5b Bradgate Road.	Permission granted subject to conditions	12-Mar-2019	Anstey
P/18/1970/2	Full	Land opposite 228 Barrow Road Sileby Leicestershire	Regularisation of equestrian activities and associated storage units and menage.	Permission granted subject to conditions	13-Mar-2019	Barrow & Sileby West
P/19/0129/2	Full	Development Site at Former 109 Cotes Road Barrow Upon Soar LE12 8JP	Plot type amendment - Plot 2 (Resubmission of approved application P/17/2071/2 - approved 14 March 2018)	Permission granted subject to conditions	19-Mar-2019	Barrow & Sileby West
P/18/0674/2	Outline Planning Permission	Land to rear of 107 Cotes Road Barrow upon Soar	Erection of 1 detached dwelling and detached garage (Outline application).	Permission granted subject to conditions	22-Mar-2019	Barrow & Sileby West
P/18/1290/2	Full	Wharncliffe Road Loughborough LE11 1RW	Erection of nine dwellings and associated parking.	Permission granted subject to conditions	19-Mar-2019	Loughborough Hastings
P/16/1795/2	Outline Planning Permission	Land off Wharncliffe Road and Great Central Road Loughborough	Variation of condition 4 attached to P/11/1305/2 relating to the provision of public art.	Permission granted subject to conditions	19-Mar-2019	Loughborough Hastings
P/18/0267/2	Full	Pasture Lane Hathern Loughborough LE12 5LJ	Erection of barn for storage of hay and machinery and provision of hardstanding.	Permission refused	19-Mar-2019	Loughborough Hathern & Dishley

<b>Application number</b>	<b>Application type</b>	<b>Location</b>	<b>Proposal</b>	<b>Decision</b>	<b>Decision date</b>	<b>Ward</b>
P/18/2531/2	Full	Unsteady Fluids Building Holywell Park Holywell Way Loughborough Ashby Road LE11 3QF	Installation of steel support frame to approved fume extraction system.	Permission granted subject to conditions	15-Mar-2019	Loughborough Nanpantan
P/18/2436/2	Full	Land off Allendale Road Loughborough Leicestershire	Variation of condition 13 of P/18/0302/2 to remove provision of pedestrian link to adjacent retail development	Permission granted subject to conditions	12-Mar-2019	Loughborough Shelthorpe
P/19/0101/2	Full	Forest Field Forest Road Loughborough Leicestershire LE11 3NS	Alterations to existing squash court building to provide staff gymnasium.	Permission granted subject to conditions	14-Mar-2019	Loughborough Southfields
P/18/2579/2	Full	Land adj. to 32 Laurel Close Mountsorrel LE12 7JN	Erection of detached dwelling.	Permission granted subject to conditions	19-Mar-2019	Mountsorrel
P/18/1956/2	Reserved Matters	Land off Tickow Lane Shepshed Leicestershire	Erection of 58 dwellings and associated works (Reserved Matters - P/13/1826/2, P/17/0424/2 and P/18/0586/2 refers)	Permission granted subject to conditions	13-Mar-2019	Shepshed West
P/19/0154/2	Full	Bentley Leicester Granite Way Syston LE7 1PF	Erection of single storey 4 bay valet building.	Permission granted subject to conditions	21-Mar-2019	Syston West
P/19/0155/2	Full	155 Humberstone Lane Thurmaston LE4 8HP	Installation of a 3.2m high argon cylinder to eastern side of building.	Permission granted subject to conditions	21-Mar-2019	Thurmaston



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P/18/2454/2	Full	Ratcliffe College 351 Fosse Way Cossington Leicestershire LE7 4SG	Erection of single storey timber building for cricket pavilion	Permission granted subject to conditions	19-Mar-2019	Wreake Villages