

Item No. 1

Application Reference Number P/18/1548/2

Application Type:	Full	Date Valid:	15/08/2018
Applicant:	Mr A Bailey		
Proposal:	Change of use from House in Multiple Occupation (Class C4) to Large House in Multiple Occupation (sui generis)		
Location:	22 Carington Street Loughborough LE11 5NF		
Parish:	Loughborough	Ward:	Loughborough Storer
Case Officer:	Deborah Liggins	Tel No:	01509 634733

This item is referred to Plans Committee at the request of Councillor Tillotson who considers that there are already large numbers of houses in multiple occupation in the area and that the increase in the number of potential occupiers at this property would not be good for the local community.

Description of the Application Site

The application property lies on the eastern side of Carington Street which is a private and unadopted road running between Alan Moss Road and Knightthorpe Road. The property is a gabled extended bungalow with a hard-surfaced frontage which is capable of providing car parking for 5 vehicles parked perpendicular to the street. The property currently has 1 ground floor bedroom and 5 first floor bedrooms and is an existing house in multiple occupation, known to have been occupied by up to 6 persons since before the introduction of the Article 4 Direction in 2012.

Description of the Proposals

The proposal is to utilise a ground floor storage room and existing ground floor study to provide 2 additional bedrooms and bringing the total number of bedrooms at the property to 8. There are intended to be no external alterations to the appearance of the property and no changes to the existing car parking area.

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.

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

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.

The National Planning Policy Framework (2018)

The Framework does not make specific reference to extensions to HMOs 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.

Paragraph 108 requires that development should only be prevented or refused on transport grounds if there would be unacceptable impacts on highway safety or if the residual cumulative impacts of development would be severe.

The Leicestershire Highways Design Guide (2018)

This is a guide for use by developers and published by Leicestershire County Council and provides information to developers and local planning authorities to assist in the design of road layouts. 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; and 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) May 2017

A Housing Supplementary Planning Document was adopted on the 11th May 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 directive which 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 HMOs 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 HMOs.

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 can therefore be a material consideration in the determination of planning applications.

Relevant Planning History

P/11/0233/2 – Erection of roof extensions, single storey extension to side, single storey extension and conservatory to rear of dwelling – granted conditionally. These extensions have been implemented with the exception of the conservatory (which is shown on the submitted plans as it is extant development)

P/11/1766/2 – Amendment to P/11/0233/2; alterations to windows on front, rear and side elevations – agreed unconditionally as a non-material amendment.

P/12/0551/2 – Retention of change of use for the conversion of a dwelling (Class C3) into a house occupying 9 unrelated people (sui generis). Planning permission was refused for the following reason:

“It is the opinion of the local planning authority that the change of use from a dwelling (Class C3) to a property inhabited by 9 residents (sui generis) has introduced an intensification of the use of the property, greater than that of an average family group. The noise associated with the increased amount of cars arriving and exiting the site and the associated noise in the street from the use of such vehicles, has resulted in noise and disturbance to neighbouring residents, to the detriment of neighbouring residential amenity. Furthermore it is considered that with the increase in the number of cars being parked to the front of the property, it has had an adverse affect on the general character and appearance of the surrounding area. In this respect the proposal is contrary to policies EV/39 and H/13 of the Borough of Charnwood Local Plan which reflect guidance in paragraph 17 of the National Planning Policy Framework.”

An associated appeal was also dismissed amid concerns about the extent of the activity and noise and disturbance being harmful to the amenities of neighbours and the required car parking harming the character and appearance of the surrounding area.

Responses of Statutory Consultees

Councillor Tillotson opposes the application as there are already large numbers of houses in multiple occupation in the area and the expansion of the application property would not be good for the local community.

The Council’s Housing Standards Officer comments that the minimum internal size for a adult’s bedroom should be 6.52 sq.m. The proposal meets this requirement.

The Council’s Environmental Protection Team has no objections to the proposed use and confirms that it has no recorded complaints relating to noise nuisance arising from the use of the property over the last five years.

Other Comments Received

Comments have been received from the occupiers of the following addresses:

Carington Street – 3, 6, 8, 14,17, 18, 19, 20, 21, 22, 24, 25, 32, 35, 36 + 1 anonymous
Albany Street, No 5 (Neighbourhood Watch Representative)
Alan Moss Road – 39, 41
Irwin Avenue - 5

Petition with 38 Carington Street and Alan Moss Road signatories against the proposal

Concerns include

- Residents have experienced rubbish being left in the street & overflowing bins & associated odour.
- Issues around anti-social behaviour.
- Noise, potentially from parties at the dwelling or on returning to the dwelling at unsociable times and from loud music.
- Parking issues – the 5 spaces within the boundary of the property are insufficient in quantity and surfacing leading to parking within the private road, blocking driveways.
- Increased traffic in the street due to changes at A6/Alan Moss Road junction which would be exacerbated by the proposal.
- Increased wear and tear on the private road and impact on safety.
- There are no details of fire precautions on the plans, e.g. the location of fire exits/extinguishers/sprinklers.
- Decrease in value of homes within the area.
- The owner is slow to respond to concerns about repairs and the behaviour of tenants.
- Loss of privacy and overshadowing.
- The community in the street is of young families and older people and the use would upset the community balance.
- Increased numbers of people within the street would lead to loss of privacy.
- The appearance of the street & overbearing impact.
- Light pollution experienced by windows not having blinds.
- The property does not meet fire safety standards.
- Evidence of reports of anti-social behaviour in 2014.

In addition, the Rt. Hon Nicky Morgan MP has been contacted by a constituent and notes that a similar planning application was made some years ago and that she is aware of the previous appeal and outcome. The external areas of the property have in the past been strewn with litter and it is considered that the increase in the number of bedrooms would exacerbate this.

One letter of support has been received from the occupier of 17 Epinal Court stating the house is kept clean and tidy and that reported incidents of refuse overflowing the bins is not a regular occurrence. They have never seen more than 3 cars at the dwelling and consider that not every occupier has a car. Carington Street may be a family orientated street but Loughborough is a university town.

Consideration of the Planning Issues

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

1. Principle of Development
2. Community Balance and the Character of the Area
3. Noise and Disturbance

4. Bin Storage
5. Car Parking
6. Other Matters

Principle of 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. Loughborough is considered to be a sustainable location for housing development due to its accessibility to employment, educational establishments, shops and services. The site is also well served by easy pedestrian access to bus stops and is within cycling or walking distance of the town centre. The location of the site is therefore acceptable in principle and the proposal accords with Policy CS1.

In addition, the supporting text to Policy CS4 states 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 HMOs. 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 HMOs in Loughborough, particularly where it is demonstrated there are associated adverse impacts. The proposal is in a main urban area and while the principle of development is acceptable, the detailed consideration of the proposal against relevant policies and detailed criteria needs to be undertaken before a recommendation can be made on the application.

Community Balance and the Character of the Area

The adopted Housing SPD advises how the Council will deal with applications for houses in multiple-occupation and adopts a threshold approach to controlling student occupancy of residential property, based on assessing the amount of existing such properties within a 100m radius of the application site.

Whilst some objectors conclude the number of HMOs in the vicinity of the site is already excessive, the adopted methodology considers a wider area of 100m radius around the application site and in this includes parts of Albany Street and Tyler Avenue.

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

The Council's Geographical Information System holds a database of HMOs and draws on a number of data sources in the Council and the University to give the most accurate depiction available of HMO saturation in Loughborough. Within 100m radius of the application site there are calculated to be 72 residential properties of which 4 are houses in multiple occupation. This equates to 5.6%. This figure is lower than the 20% threshold

which is given in the Housing Supplementary Planning Document upon which the development is likely to be considered unacceptable. This is an approach which has been supported by Inspectors in previous appeal decisions.

However, the issue is not confined to the mathematics of the case and the other individual considerations must be assessed and a judgment reached as to whether the level of harm that would be caused would be sufficient to support a refusal of planning permission or whether the impact would be so limited as to indicate that planning permission should be granted. These matters are considered below.

Noise and Disturbance

Noise in HMOs can often be a concern for objectors because of the number of people who are living independently within the property which can be considered to adversely affect the amenity of neighbouring properties.

However, it has proved difficult in past appeals to persuade inspectors of the impact of student or shared living solely on the basis of the SPD, where there has been a lack of other detailed evidence of harm. Information from the Borough Council's Community and Partnerships team shows that over the past year, there have been 2 recorded incidents relating to anti-social behaviour on Turner Avenue and Albany Street and it is not possible to identify that student behaviour was the primary aggravating factor. A neighbour has provided historical evidence of anti-social behaviour incidents arising from the use of the property but these are from several years ago.

The property has been used for 6 occupiers and the proposal is for an 8 bedroom dwelling and it is acknowledged that noise can often be a concern for objectors because of the number of people who are living independently, which can be considered to adversely affect the amenity of neighbouring properties. The increase in the number of tenants could potentially result in additional noise. Although the bedrooms could potentially fit a double bed, it does not necessarily follow that 16 people could occupy the house - in fact the lawful use limits the number to 6. It is considered that the number of occupiers could be restricted by planning condition and that 8 persons is only marginally greater than a family house. The property is a large detached dwelling with ample communal internal and external amenity spaces. Consequently, it is concluded that concerns that the noise would be significantly greater than a C3 dwelling cannot be sustained and it is considered that the increase in the number of persons at the property would be only marginally greater than a large family house or extended family house. The absence of noise complaints to the Council's Environmental Protection Team is also a factor to be considered.

Whilst it is considered that there may be instances where a clash of lifestyles or behaviour could 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 occupation. To recognise this as a potential harm in all cases would be to deny any HMO uses in an area. Conflict that occurs in individual cases is not a matter that can easily be expressed as a planning objection. Such occurrence can be dealt with by other forms of regulation. A HMO may of course be occupied by professionals just as easily as students or other persons sharing the property. The control over who the property is let to (for example students, professional people etc.) is outside the remit of planning control and is a matter for the owner/letting agency. 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. If neighbours habitually experience this, other legislation and measures exist which may provide appropriate control. Taking the above into account, it is considered that the proposal accords with Policies EV/1, CS2 and CS4.

Bin Storage

The property has sufficient space to its frontage or to its rear to accommodate the range of current wheelie bins offered as part of the regular domestic refuse collection service and bins can therefore be stored off the private road on collection days. A gated rear entrance makes it possible for these to be stored in the rear garden, out of public view, although it is unnecessary and unreasonable for the applicant to be compelled to do so. Current arrangements would therefore be acceptable and it is considered that the development accords with Policy CS16.

Car Parking

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, to the detriment of highway safety and amenity. The street is a private one and is not subject to Traffic Regulation Order parking restrictions. Nor is the dwelling located within a resident parking scheme operated by the County Council. Several properties within the street display 'no parking' signs to at their boundaries with the private road. Notwithstanding, the amount of car parking within the street is limited by its width and the number of existing vehicle crossings serving dwellings on both sides.

The Highway Authority standing advice confirms that the car parking requirement would be for 4 off-street car parking spaces at this property.

To refuse a planning application on highway safety grounds it must be demonstrated that there would be an unacceptable impact on highway safety or severe residual cumulative impacts resulting from the proposal. The property has more off-street car parking than current standards require and the passing speed of traffic on this relatively poorly maintained private road is considered to be low. Although residents consider the current car parking would be insufficient to meet the needs of occupiers, it is considered that the proposal would not exacerbate street parking to the extent that highway safety or the free flow of traffic would result.

It is pertinent to note that Planning Inspectors have accepted HMOs 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 HMO 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). It is also relevant to consider that No. 137 Park Road, Loughborough was recently granted planning permission for a change of use to a house in multiple occupation (under P/17/0141/2) with no car parking being available. Extensions to another House in Multiple Occupation (including its change of use to a large HMO) were

considered and granted by the Plans Committee at its June 2018 meeting relating to No. 127 Park Road, Loughborough (under P/18/0664/2) with no off-street car parking being available.

In the event planning permission is granted for this development, it is recommended that a planning condition be imposed to retain the current property frontage as car parking on a permanent basis.

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 impacts as described in Paragraph 108 of the NPPF would not be caused by the development.

Other Matters

Some residents are concerned that the proposed use of the dwelling in the way described would, if allowed, reduce property prices in the area. This is not a material planning consideration that can be taken into account in the determination of the application.

Several residents comment that Carington Street is a private and unadopted road whereby each property owns the road frontage to the centre of the street with other vehicles having a right to pass over the area but not park within it. Obstruction of driveways is a civil matter between the neighbours concerned who may wish to seek their own legal advice.

Whether or not the property meets fire safety standards is not a matter for consideration as part of the determination of the planning application. If permission is granted for the use, the agent will be encouraged to contact the Council's Building Control service to ensure that the new use would be Building Regulation compliant.

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.

There is sufficient car parking at the property to meet current standards and it is considered that the proposed use would not result in unacceptable harm to highway safety or severe residual cumulative impacts, given the absence of parking restrictions and the sustainable location of the site for alternative modes of transport.

Accordingly, having regard to the above considerations, it is recommended 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.

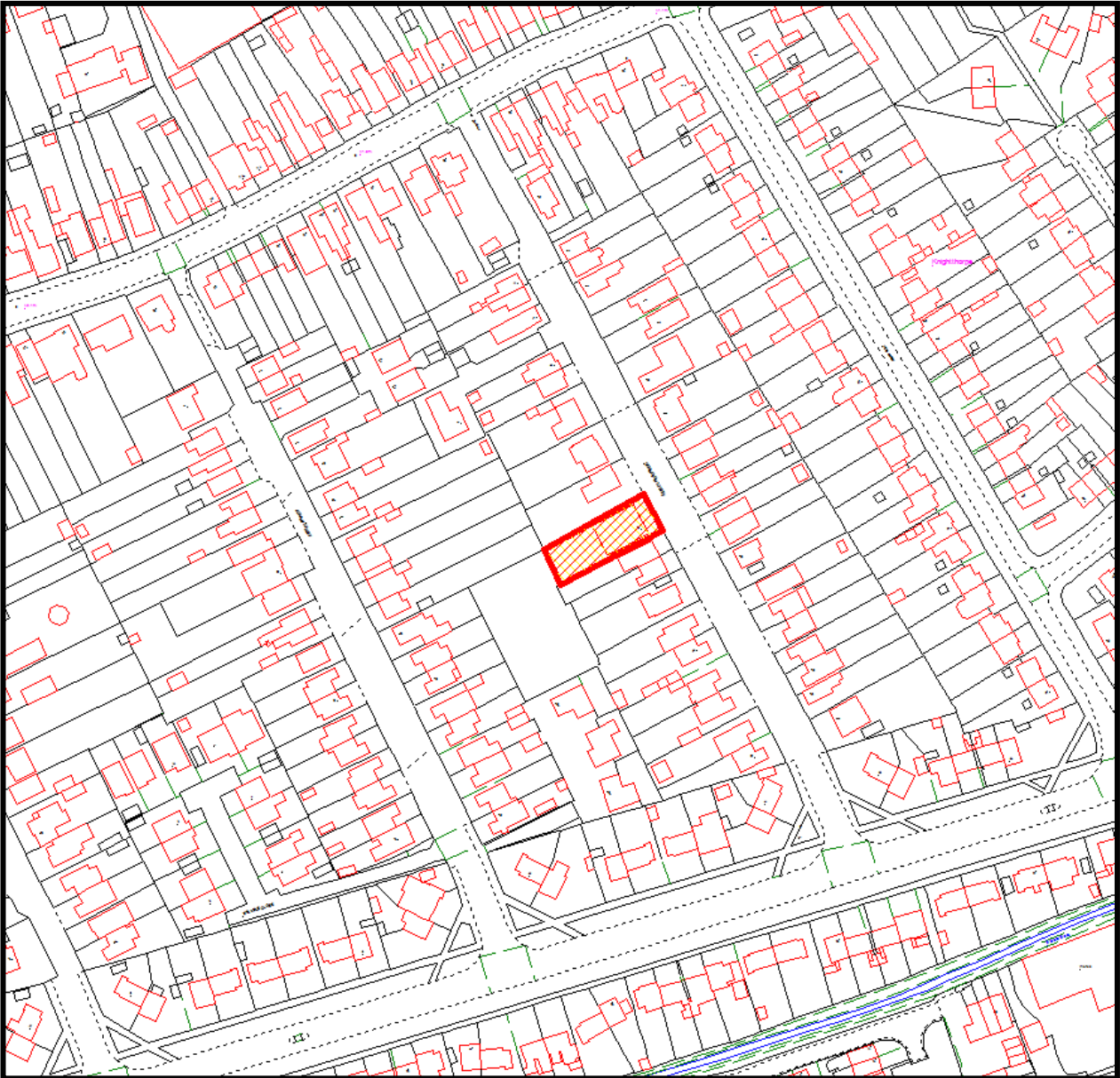
REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 The development hereby permitted shall be carried out in accordance with the following approved plans:
1:1250 site location plan
868 - issue No.2 - Proposed floor plans and car parking layout - revised plan received on 15th August 2018.
REASON: To define the terms of the planning permission.
- 3 The existing five car parking spaces as indicated on drawing No 868 Issue No. 2 shall remain available and shall not be obstructed in any way that would prevent such use.
REASON: To make sure adequate off-street parking is provided and retained, in the interests of road safety.
- 4 The use of the property shall be limited to occupation by not more than 8 persons.
REASON: In order to ensure the use remains compatible with the surrounding residential area.

The following advice notes will be attached to a decision

- 1 DEVELOPMENT PLAN POLICIES RELEVANT TO THIS DEVELOPMENT
Policies CS1, 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 policies 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 (paragraphs 38-58) and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.

- 4 In order to ensure the property has sufficient 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 before the use commences.
5. The applicant is advised to contact the Council's Building Control Service on 01509 634756 to ensure the new use would be Building Regulation compliant, including fire safety requirements.



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