



Leicester
City Council

**Wards:
See individual reports.**

Planning & Development Control Committee

Date: 30th October 2013

REPORTS ON APPLICATIONS, CONTRAVENTIONS AND APPEALS

Report of the Director, Planning, Transportation & Economic Development

1 Introduction

- 1.1 This is a regulatory committee with a specific responsibility to make decisions on planning applications that have not been delegated to officers and decide whether enforcement action should be taken against breaches of planning control. The reports include the relevant information needed for committee members to reach a decision.
- 1.2 There are a number of standard considerations that must be covered in reports requiring a decision. To assist committee members and to avoid duplication these are listed below, together with some general advice on planning considerations that can relate to recommendations in this report. Where specific considerations are material planning considerations they are included in the individual agenda items.

2 Planning policy and guidance

- 2.1 Planning applications must be decided in accordance with the provision of Development Plan, principally the Core Strategy, saved policies of the City of Leicester Local Plan and any future Development Plan Documents, unless these are outweighed by other material considerations. These include supplementary planning documents, site-specific development briefs produced by the City Council, and relevant national policy. Individual reports refer to the policies relevant to the recommendation.

3 Sustainability and environmental impact

- 3.1 The policies of the Local Plan and the LDF Core Strategy were the subject of a Sustainability Appraisal that contained the requirements of the Strategic Environmental Assessment (SEA) Directive 2001. Other Local Development Documents will be screened for their environmental impact at the start of preparation to determine whether an SEA is required. The sustainability implications material to each recommendation, including any Environmental Statement submitted with a planning application are examined in each report.
- 3.2 All applications for development falling within the remit of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 are screened to determine whether an environmental impact assessment is required.

- 3.3 The sustainability and environmental implications material to each recommendation, including any Environmental Statement submitted with a planning application are examined in each report.
- 3.4 Core Strategy Policy 2, addressing climate change and flood risk, sets out the planning approach to dealing with climate change. Saved Local Plan policies and adopted supplementary planning documents address specific aspects of climate change. These are included in individual reports where relevant.

4 Equalities and personal circumstances

- 4.1 Planning application decisions are monitored by the ethnicity of the applicant. It is established policy not to identify individual applicants by ethnic origin, as this would be against assurances of confidentiality. I am also unable to give numbers of applications in each group as in some cases these are so small that individual applicants could be identified. The results of this monitoring are included in one of the quarterly monitoring reports about performance of the service.
- 4.2 The City Council must also assess impact in race equality terms before approving major developments and must show that they have properly applied the principles of section 71 of the Race Relations Act whenever taking a significant planning decision. Section 71 of the Act requires that “due regard” be given to risks of unlawful discrimination and the need to promote equality of opportunity and good race relations between persons of different racial groups when public authorities exercise their functions.
- 4.3 Section 149 of the Equality Act 2010 provides that local authorities must, in exercising their functions, have regard to the need to:
- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
 - b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The protected characteristics are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

- 4.4 The identity or characteristics, or economic circumstances of an applicant or intended users of a development are not normally material considerations. Where there are relevant issues, such as the provision of specialist accommodation or employment opportunities these are addressed.

5 Crime and disorder

- 5.1 Issues of crime prevention and personal safety are material considerations in determining planning applications. Where relevant these are dealt with in individual reports.

6 Finance

- 6.1 The cost of operating the development management service, including processing applications and pursuing enforcement action, is met from the

Planning Management and Delivery Group budget which includes the income expected to be generated by planning application fees.

- 6.2 Development management decisions can result in appeals to the Secretary of State or in some circumstances legal challenges that can have cost implications for the City Council. These implications can be minimised by ensuring decisions taken are always based on material and supportable planning considerations. Where there are special costs directly relevant to a recommendation these are discussed in the individual reports.
- 6.3 Under the Localism Act 2011 local finance considerations may be a material planning consideration. When this is relevant it will be discussed in the individual report.

7 Planning Obligations

- 7.1 Where impacts arise from proposed development the City Council can require developers to meet the cost of dealing with those impacts, such as increased demand for school places, through planning obligations. These must arise from the council's adopted planning policies, fairly and reasonably relate to the development and its impact and cannot be used to remedy existing inadequacies in services or facilities. The council must be able to produce evidence to justify the need for the contribution and its plans to invest them in the relevant infrastructure or service, and must have regard to the Community Infrastructure Levy Regulations 2010. Recommendations to secure planning obligations are included in relevant individual reports.
- 7.2 Planning obligations cannot make an otherwise unacceptable planning application acceptable.

8 Legal

- 8.1 The recommendations in this report are made under powers contained in the Planning Acts. Specific legal implications, including the service of statutory notices, initiating prosecution proceedings and preparation of legal agreements are identified in individual reports. As appropriate, the City Barrister and Head of Standards has been consulted and his comments are incorporated in individual reports.
- 8.2 Provisions in the Human Rights Act 1998 relevant to considering planning applications are Article 8 (the right to respect for private and family life), Article 1 of the First Protocol (protection of property) and, where relevant, Article 14 (prohibition of discrimination).
- 8.3 The issue of Human Rights is the material consideration in the determination of planning applications and enforcement issues. Article 8 requires respect for private life in the family and the home. Article 1 of the first protocol provides an entitlement to peaceful enjoyment of possessions. Article 14 deals with the prohibition of discrimination. It is necessary to consider whether refusing planning permission and/or taking enforcement action would interfere with the human rights of the applicant/developer/recipient. These rights are 'qualified', so committee must decide whether any interference is in accordance with planning law, has a legitimate aim and is proportionate.

- 8.4 The impact on the human rights of an applicant or other interested person must be balanced against the public interest in terms of protecting the environment and the rights of other people living in the area.
- 8.5 Case law has confirmed that the processes for determination of planning appeals by the Secretary of State are lawful and do not breach Article 6.

9 Background Papers

Copies of individual planning applications are available for inspection in the Customer Service Centre, New Walk Centre, on screen at relevant local customer service centres and on line at www.leicester.gov.uk/planning. Comments and representations on individual applications are kept on application files, which can be inspected by contacting the Planning Service on extension 7286 or on line in the relevant application record.

10 Consultations

Consultations with other services and external organisations are referred to in individual reports.

11 Report Author

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**INDEX
APPLICATION ORDER**

Page Main	Page Supp	Application Number	Address	Ward
6		20131493	THURCASTON ROAD, FORMER CORAH SPORTS GROUND	AB
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**INDEX
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