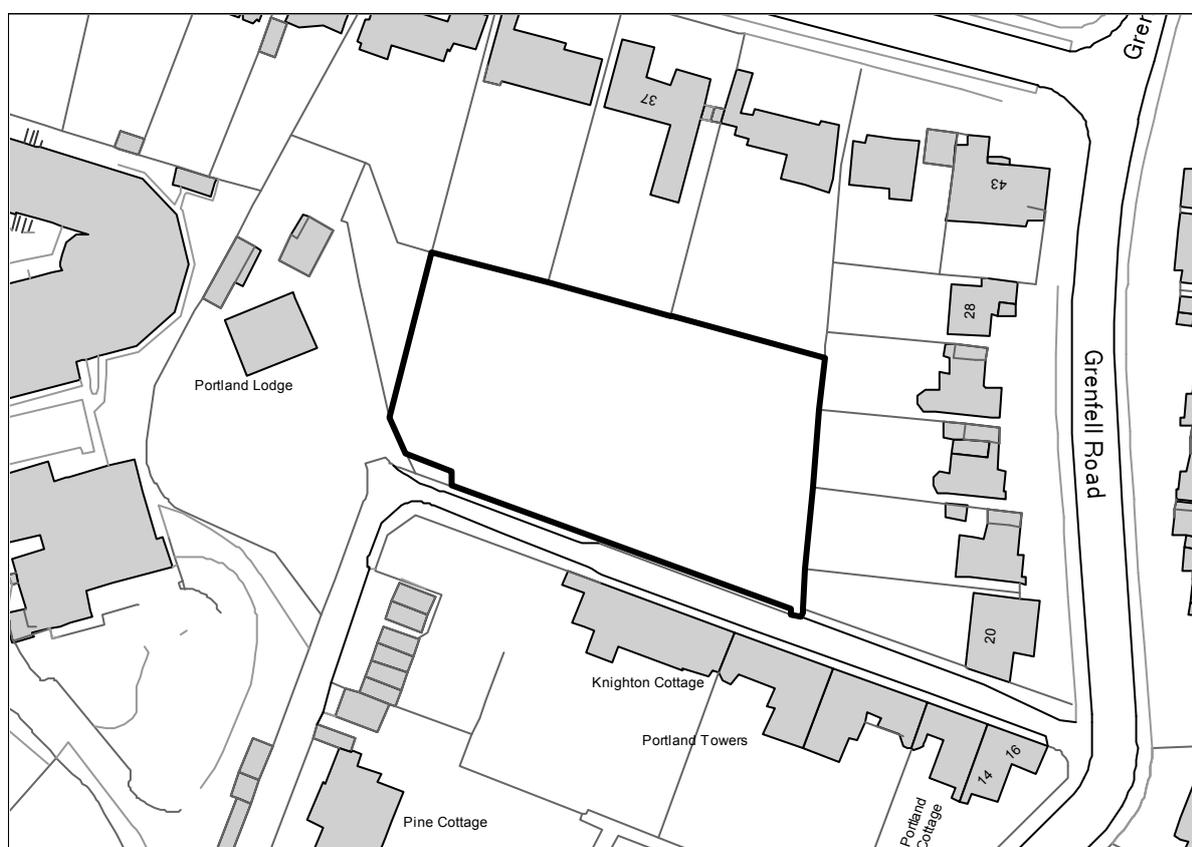


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|---|---|
| Recommendation: Conditional approval | |
| 20182547 | PORTLAND TOWERS, LAND ADJACENT PORTLAND LODGE |
| Proposal: | CONSTRUCTION OF TWO-STOREY DETACHED DWELLING (1X 4BED); DETACHED GARAGE; ASSOCIATED PARKING AND LANDSCAPING (CLASS C3) |
| Applicant: | MR SINGH |
| View application and responses | http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20182547 |
| Expiry Date: | 31 May 2019 |
| PK | WARD: Knighton |



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Summary

- The application is before committee as more than 5 objections have been received;
- a total of 26 objections received concerned with the principle of development, design and character, impact on biodiversity and archaeological landscape, impact on residential amenity, access, flood risk and restrictive covenants;

- the main issues are the principle of development, amenity and privacy, character of local area and locally listed buildings nearby, appearance, parking, trees, landscaping, ecology, archaeology, flooding, sustainable drainage, use of unadopted access road;
- recommended for approval.

The Site

The application relates to a grassed parcel of land situated along an unadopted road which sits to the north of London Road and west of Grenfell Road which are also connected by the same access road. The site has an area of approximately 0.3 hectares. The site is allocated Green Space in the City of Leicester Local Plan and is surrounded by residential properties on all sides. There a number of mature trees on site, of these, some of the trees along the front (south) and side (east) elevation (approximately 6) are subject to a Tree Preservation Order (TPO).

Background

19781083 – Development of land for four detached dwellings (Outline application) – approved in 1978

20142380 – Development for two detached houses (Outline application) - refused for the following reasons:

1. The proposed development would result in significant harm i) disturbance to an active badger sett and badgers using it and potential death to a badger(s); ii) loss of habitats (trees, shrub and grassland) that provide habitat for bats, badgers and birds. The proposal is therefore contrary to Core Strategy policies CS01, CS03, CS13 and saved local plan policies GE02, GE03 and GE09.
2. The proposal due to the layout and site constraints of the eastern plot would be overdevelopment and would to an unacceptable living environment. It would also lead to pressure to prune and/or fell surrounding trees. The proposal is therefore contrary to Core Strategy policies CS01, CS03, CS13 and saved local plan policies GE02, GE03 and GE09.
3. The proposed development would lead to the whole loss of well preserved ridge and furrow earthworks. The proposal is therefore contrary to Core Strategy policies CS01, CS03, CS18 and saved local plan policy UD06.

20151875 – Residential development (outline application for one dwelling (four bedrooms) including access and layout) all other matters reserved (Class C3) – Conditional approval was granted by planning committee on 19/11/2015.

The Proposal

The proposed development relates to the construction of a detached dwelling with a detached garage. The proposed dwelling would have a footprint measuring 11.5 metres by 15 metres. The property would be located approximately 10.9 metres from the site's west boundary (common with Portland Lodge), 9.8 metres from the north boundary (common with properties along Morland Avenue), 40 metres with the east boundary (common with properties along Grenfell Avenue) and 15 metres from the

south boundary of the site. The property would have a ridge height of 8.9 metres and eaves height of 6.6 metres.

The detached garage would have a footprint measuring 8.2 metres by 8.2 metres and would be sited forward of the front elevation of the property. The garage would have a pitched roof with a ridge height of 5.7 metres. The roof form of the garage would match that of the proposed dwelling.

The property would have a hipped roof with a large flat roof element. The property would have ground floor front bay windows to either side of the central door and a central rear extension measuring 4.6 metres by 1.3 metres. To the east elevation there would be covered canopy at ground floor level.

Policy Considerations

The National Planning Policy Framework (NPPF) 2019

Paragraph 2 states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. Paragraph 11 contains a presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with the development plan without delay.

Where the development plan is absent, silent or relevant policies are out of date, this means granting planning permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies in the NPPF taken as a whole. Leicester city Council does not currently have a 5 year housing land supply therefore the policies relating to housing are out of date.

Paragraph 59 places an emphasis on the importance of a sufficient amount and variety of land to come forward where it is needed and that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

In making an assessment Paragraph 108 of the NPPF states that development proposals should take up appropriate opportunities to promote sustainable transport modes; ensure safe and suitable access can be achieved for all users and; any significant impact (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 109 advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Section 12 of the NPPF focuses on requiring good design. Paragraph 124 describes good design as a key aspect of sustainable development. Paragraph 127 sets out criteria for assessing planning applications and requires decision makers to ensure that development proposals:

- a) Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Paragraph 130 states that permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions.

Paragraph 155 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. When determining planning applications for development within flood risk areas paragraph 163 requires local planning authorities to ensure that flood risk is not increased elsewhere.

Paragraph 170 encourages planning decisions to contribute to and enhance the natural environment and paragraph 175 outlines clear principles for biodiversity principles. Paragraph 177 clearly states that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.

In determining applications, paragraph 189 recommends that local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Section 16 places and emphasis on the desirability to sustain and enhance significance of Heritage Assets. Paragraph 190 advises that Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

In determining applications paragraph 192 states that, local planning authorities should take account of:

- a) The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) The desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 197 states the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 200 requires local planning authorities to look for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

Development Plan policies

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

Supplementary Planning Documents (SPD)

Residential Amenity SPD

Appendix 01 – City of Leicester Local Plan

Other legal or policy context

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Consultations

Local Highways Authority: Access to the site is via a private road using existing access points. No objections or concerns

Trees and Woodlands: No objection subject to conditions

Lead Local Flood Authority: No objection subject to conditions

City Archaeologist: No objection subject to conditions

Representations

A total of 31 letters of objection have been received from 26 objectors which raise the following concerns:

- Loss of green space, biodiversity and natural habitat;
- Active and substantial badger sett has already been disturbed by the provision of fencing, but there continues to be an active badger sett on site which would be lost by the proposed development;
- Loss of ridge and furrow earthworks which is the last one within the City;
- Proposed property would be out of character with adjacent buildings and would appear at odds with the historical fabric of buildings;
- Lack of details submitted such as external finishes and the location of the proposed dwelling in context of adjacent properties;
- A number of trees have already been removed from the site and the proposal would put pressure on loss of more natural landscaping;
- Residential amenity such as privacy, overlooking and overshadowing from the proposed dwelling;
- The site is accessed off an unadopted road which the applicant only has a right of way. The applicant does not own or have permission to park or lay any services on the land not owned by them;
- The access road is relatively narrow, especially at this end and the proposal could lead to traffic collision, especially with the grant of planning permission for land opposite the site. There is limited space for access by emergency vehicles;
- The drainage and sewers are Victorian. The applicant has not confirmed if they are able to connect to the existing drains and if there is capacity. The impact on the drains could lead to property's flooding;
- There are restrictive covenants which do not allow the development of the site;
- The outline permission has lapsed and the current application does not satisfy the conditions of the outline consent. This application should be considered as out of date and should not be determined;
- The applicant does not have permission to block access during construction of the proposed dwelling to create new man-holes to the front of adjacent properties;
- Supporting Information including plans have been amended twice during the consultation period; and,

- There have been breaches of planning control on the site which have been reported to the Planning Enforcement Team.

Following the submission of additional details in respect of supporting information on archaeological, trees and biodiversity issues a further 8 objections have been received raising the following *additional points*:

- No details of external finishes provided, another development along the private drive is required to be constructed of Ibstock Birtley Olde English or Furness Brick Chapel Blend;
- UPVc windows are proposed which is considered unacceptable;
- The developer for another site on the lane has already damaged the lane and the proposed developer should be required to resurface the lane in case of damage;
- All TPO's should be protected as part of the development;
- How will the requirements of the LEMP be secured?
- The drainage information submitted is unclear as it includes no information of how foul sewage would be removed from the site;
- The red line boundary representing ownership is flawed;
- The plans do not demonstrate how the proposal complies with the Residential Amenity SPD;
- The request to make the badger survey confidential is unacceptable; and,
- The site has no direct access onto the lane itself as it is owned by someone else.

Three letters of support have been received advising that the land has been within private ownership and the development appears attractive. They say the site cannot be viewed from anywhere other than the lane and there is a shortage of houses within the City.

Consideration

Principle of development

Policy CS06 of the Leicester Core Strategy (2014) undertakes to meet the City's housing requirements over the plan period through, *inter alia*, limited housing growth within established residential areas and small housing infill to support the development of sustainable communities. Policy CS08 recognises that small scale infill sites can play a key role in the provision of new housing. The site is designated in the Local Plan as 'Green Space' subject to saved policy GE09 of the City of the Leicester Local Plan.

The Council cannot currently identify a supply of specific, deliverable sites sufficient to provide five years' housing. The proposal would make a modest contribution to housing supply through the redevelopment of this small site within an established residential area, and the provision of larger family homes is particularly welcome. In these respects the proposal would be consistent with Policy CS06. Outline planning permission has been granted in 2015 for a dwelling on site and policies relating to

housing are currently out of date, as per paragraph 11 of the NPPF. Within this policy context it is considered the proposed development is acceptable in principle.

Heritage, Character & Design

Policy CS18 of the Leicester Core Strategy (2014) commits the Council to protect and seek opportunities to enhance the historic environment, including the character and setting of designated heritage assets. The Policy goes on to support the sensitive reuse of high quality historic buildings and spaces, promote the integration of heritage assets and new development to create attractive spaces and places, and encourage contemporary design rather than pastiche replicas.

The application site is not within a Conservation Area, nor is the site within the curtilage of a listed building. The site is recognised as having a medieval ridge and furrows. The site is situated to the east of locally listed Portland Lodge which is occupied as a residential dwelling and to the north of Pine Cottage, Portland Towers and Knighton Cottage which are also locally listed buildings subject to an Article 4 direction which restricts demolition and extensions and alterations under Class A of the General Permitted Development Order (GPDO). There are a number of other locally listed assets in close proximity of the site.

Based on the site's relatively sheltered position within the lane, the site is considered appropriate for a two storey development in terms of its impact on the heritage assets. The site would be sheltered by the mature trees surrounding the site and would continue to be sheltered by additional planting. It is considered the proposed development would have a limited impact on the locally listed assets. Subject to a condition requiring the submission of all external finishes, it is considered the development would not erode the significance of the local heritage assets. It is noted that objections have been raised regarding the external finishes of the proposed dwelling, but this can appropriately be secured by way of condition.

It is recognised that the proposed dwelling has been designed as a relatively modern detached property. The design details of the property are not replicating design features from adjacent properties which are all of varying design styles which I consider to be appropriate. The front elevation would have a prominent gable front with ground floor pillars which I consider would not detract within the street scene due to the set-back from the access point into the site. The two storey height of the dwelling would be suitable for the site which is dominated by two storey dwellings. Its height would also ensure that the property would not compete with the prominence of Portland Towers.

The proposed detached garage would be sited to the front of the site and would have a similar design to the proposed dwelling. Although the height of the garage would compete with the height of the property, it would not be readily visible from the private road and would not detract from the residential character of the lane.

The proposed development would not adversely impact the leafy residential character and appearance of the local area and private road. The proposed dwelling would not attempt to replicate the design of the locally listed properties in the immediate area which is suitable for new development in the area. I consider the proposed scheme to

make an acceptable impact on the local heritage assets in accordance with paragraphs 192, 197 and 200 of the NPPF 2019 and Core Strategy policy CS18.

Archaeology

The site is identified as containing a medieval ridge and furrow and therefore is subject archaeological significance in accordance with paragraph 189 of the NPPF and Core Strategy policy CS18. The applicant has submitted a desk-based assessment ref NGR:SK 61348 01669.

The proposal is located in an area with known archaeology, of low density, and the site contains extant ridge and furrow of medieval date. The proposed development will result in the loss of the ridge and furrow and there is the possibility of revealing archaeological deposits and or objects pre-dating the medieval period.

There are a number of sites throughout the city where ridge and furrow survives and is publically accessible. For example, Evington village and Leicester Golf Course, Knighton Park, Humberstone. A recent assessment of the LiDAR data also reveals that ridge and furrow can be found in other locations, such as the former Western Golf course and Castle Hill. Although the loss of the ridge and furrow will occur through the construction of the house, this will be confined to the western part of the site.

Overall, this small loss is accepted; however it is recommended that further site investigations and a written scheme of investigation are carried out and submitted to the City Council. The approved written scheme shall be followed by the developer and this should also be secured by way of condition. Subject to this, I consider the proposed development would accord with paragraphs 189 and 200 of the NPPF and Core Strategy policy CS18.

Ecology and Landscaping

Policy CS03 of the Leicester Core Strategy (2014) sets out an expectation for high quality, well designed development that contribute positively to the character and appearance of the local natural and built environment. Policy CS17 recognises that Leicester's urban environment, including buildings and private gardens, can provide important habitats for wildlife, and states that the Council will expect development to maintain, enhance and/or strengthen connections for wildlife. Saved Policy UD06 of the Local Plan (2006) resists development that would impinge upon landscape features of amenity value and requires new development to include planting proposals.

The site is a naturally vegetated site comprising mainly of grass with mature trees and shrubs on the boundary edges. A panel fence had been recently erected and several trees had also recently been felled with wood chippings piled onto the grassed area. On the east boundary of the site there was evidence of an active badger sett with several holes in use, a well-worn track between the holes and which extended around the northern boundary and to the north-west corner of the site. Access for wildlife was possible through a number of gaps in the fencing to the north-east and north-west boundary where the tracks disappeared into neighbouring properties. Evidence is present that the badgers and other wildlife were using the site for foraging (shallow digging by badgers/foxes/squirrels).

The applicant has carried out various surveys which include a Preliminary Ecological Assessment (PEA) for Vegetation, Bats and Badgers whilst also submitting a Landscape and Ecology Management Plan. The PEA for vegetation has shown that despite being a ridge and furrow the grassland species were common and it would be found to be species poor. As part of this the hedgerows were also assessed and were found to be species poor. This survey and its findings are accepted. The PEA for badgers identifies the nature of use by badger setts and the report includes recommendations for mitigation measures. It is considered that subject to conditions adequate mitigation can be secured and the proposal would not adversely impact the protected species. The PEA for bats indicated that bats are active on site within the TPO trees which are to be retained as part of the development. Subject to conditions regarding tree protection I consider the proposal would not adversely impact this protected species.

In terms of Trees and Landscape, the proposal would not result in the loss of the protected trees and the applicant has submitted a LEMP Arboricultural method statement and relevant tree surveys. This contains a report and planting scheme for the proposed soft landscaping of the site. The details contained show that a number of enhancements will be made to the hedgerows, natural area to be retained, bulb and tree planting. In this case, it is accepted that some loss of ridge and furrow species-poor grassland will be made and replaced by an amenity lawned area. However, the plan shows that this will be mitigated by additional wildflower grass seeding and will be managed in such a way to continue to enhance its biodiversity value.

I conclude that subject to conditions for lighting, tree protection, method statement LEMP and mitigation for protected species, the proposal would contribute positively to the local natural environment and the development would maintain and enhance the potential biodiversity value of this site. Furthermore, conditions can secure the appropriate provision for planting and mitigation. In these respects the proposal would be in accordance with Policies CS03 and CS17 of the Core Strategy and saved Policy UD06 of the Local Plan.

Residential Amenity

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

Section 3 of the Council's *Residential Amenity* SPD (2008) sets out more detailed design guidance for development in outer areas of the City. In particular, it recommends separation distances of 15 metres between a blank wall and principal room windows and of 21 metres between facing principal room windows. It also recommends the provision of a minimum of 100 square metres' amenity space for detached dwellings.

The SPD advises a separation distance of 11 metres is recommended between principal room windows and the boundary with any undeveloped land, including neighbouring gardens; that the separation distance between principal room windows may be reduced to 18 metres where direct overlooking is avoided by the positioning of windows, and that a two storey rear extension should not project beyond a 45 degree line from the nearest point of any ground floor principal room window at an adjacent property.

Portland Lodge

This property to the west of the application site shares a common boundary with the application site. The proposed dwelling would maintain a separation distance of 10 metres from the common boundary between the site and a further 12 metres from the side wall of Portland Lodge. The west elevation of the property contains two windows, one on the ground floor and the other on the first floor. Both of these windows would serve non-principle rooms and can be conditioned to be obscure glazed to protect the amenity of the occupants of Portland Lodge.

I consider the separation distance between Portland Lodge and the proposed dwelling would ensure there are no impacts in terms of privacy, overshadowing, daylight to and outlook from principal room windows at the adjacent property. Similarly I consider the property would not appear visually dominating nor overshadow the garden area of the adjacent property.

Morland Avenue

Numbers 35, 37 and 39 Morland Avenue would share their rear boundaries with the application site. The proposed dwelling would maintain distance of 9.8 metres with the rear boundary and a further 30 metres with no.35, 18 metres with the rear most wall with no.37 and 28 metres with no.39. I consider these separation distances would prevent any unacceptable levels of overlooking, overshadowing and overbearing impacts to occupants of Morland Avenue. There are principal room windows in the rear elevation of the proposed dwelling, however the separation distance would ensure there is no significant detriment to the occupants of properties to the north.

I consider the proposed dwelling would not result in any adverse impacts on the use of the rear garden areas of the properties to the north. I consider the proposed dwelling would not appear visually dominating from the rear gardens of Morland Avenue.

Grenfell Road

The proposed dwelling would maintain a separation distance of over 50 metres with the properties situated on the west side of Grenfell Road. I consider the proposed dwelling would not result in any adverse impacts on the amenities of occupants of these properties in respect of daylight, outlook, overbearing and overshadowing.

Knighton Cottage & Portland Towers

The proposed dwelling would be separated from the properties along the lane by the unadopted access road. The front boundary of the site has a number of mature trees and some hedges. The property is set approximately 15 metres from the front

boundary of the site and therefore a greater distance from these properties. I consider any impacts on the residential amenity of these properties would be limited by virtue of separation distance.

Land Adjacent to Knighton Cottage

The land adjacent to the Knighton Cottage comprises of garages which are currently in significant disrepair. The site is subject to planning application 20121470 which was granted conditional approval for the demolition of garages and construction of one two storey house. Conditions relating to this application have been discharged but development has not yet commenced. I consider the proposed dwelling would not prejudice the development of this site.

There is an adequate separation distance between this site and the proposed dwelling. I recognise that the access points of the two properties would be relatively close-by; however the lane is a private road and not an adopted road by the City highways team. I consider the access into the application site is relatively wide and approval of this application would not prejudice the development of the adjacent site.

General Amenity

The residential use of the site is compatible with the use of adjacent sites. I consider the finished development would not give rise to unacceptable levels of noise and disturbance to occupants of adjacent properties. Due to the sites location I consider there would be no harm to the residential amenity of other properties on adjacent roads.

I am satisfied that adequate provision of for waste collection can be made in line with the existing procedures in place. There is sufficient space within the site to store the bins.

I conclude, having regard to relevant advice at Section 3 and Appendix G of the SPD, that the proposal would have no unacceptable impacts upon the amenity and privacy of the occupiers of the neighbouring properties and that, in these regards, the proposal would comply with Policy CS03 of the Core Strategy and saved Policy PS10 of the Local Plan.

Highways

Policy CS15 of the Leicester Core Strategy (2014) states that parking for residential development should be appropriate for the type of dwelling and its location, and take into account the amount of available existing off street and on street car parking and the availability of public transport. It also seeks the provision of high quality cycle parking. Saved Policy AM02 of the Local Plan (2006) states that planning permission will only be granted where the needs of cyclists have been successfully incorporated into the design. Policy AM12 gives effect to published parking standards.

Appendix 01 of the Local Plan (2006) sets out guideline standards for car parking in new developments. For dwellings, a maximum of 2 spaces for 3+ bedroom dwellings

is recommended. The Appendix also recommends the provision of cycle parking at a ratio of 1 space per 2 bedspaces for residents plus 1 per 20 bedspaces for visitors.

There have been concerns raised by local residents in terms of the access into the site via a private road. There is also an objection from a local resident advising that the application site has no direct access onto the lane as they own part of the strip of land to the front of the site. Matters of land ownership and upkeep of private roads is outside the control of the City Council. Further comments regarding the surfacing of the private road are a matter for the relevant land owners to agree and manage.

In terms of the development itself the size of the garage is in accordance with the adopted standards of the City Highways Authority. The site would be able to accommodate adequate vehicle parking and turning space within the site so that vehicles can enter and exit the site in forward gear. Similarly cycle parking can be provided within the site and I consider there is no requirement to attach conditions to secure these.

I conclude, having regard to Appendix 01 of the Local Plan, that the proposal would have no unacceptable impact upon on-street car parking capacity and that the residual cumulative transport impacts of development would be unlikely to be severe. In these regards, the proposal would comply with Policy CS15 of the Core Strategy and saved Policies AM02 and AM12 of the Local Plan.

Flood Risk & Drainage

Policy CS02 of the Leicester Core Strategy (2014) states that development should be directed to locations with the least impact upon flooding or water resources. It goes on to state that all development should aim to limit surface water run-off by attenuation within the site, giving priority to the use of sustainable drainage techniques.

The development is located with Flood Zone 1, and does not reside within a known flooding Hotspot or Critical Drainage Area (CDA) and subsequently considered at low risk from fluvial and pluvial flooding. The applicant has submitted a flood risk assessment and Drainage Strategy in support of the application alongside other supporting documentation. The Lead Local Flood Authority has advised that the submitted information satisfies the requirements relating to drainage and SuDS design and maintenance. It is advised that a condition requiring the submission of Severn Trent Water confirmation and a second condition securing the SuDS are implemented are reasonable and necessary to mitigate concerns regarding flood risk.

I conclude that the proposal would have no unacceptable impact upon drainage and that, in this regard, the proposal would comply with Policy CS02 of the Core Strategy.

Other Matters

Turning to other matters (not otherwise addressed above) raised by objectors:

- Restrictive covenant prevents development on site: restrictive covenants are not a material planning consideration and are subject to legal controls outside of the planning process.

- Breaches of planning control which have occurred in the past: there have been two formal notices of planning breaches recorded by Planning Enforcement Officers. One related to the sub-division of the site (2017) and the other related to the removal of protected trees on site (2018). Both of these complaints were investigated and it was confirmed that no breach of planning control had occurred.
- Concerns regarding the submission of several amendments and supporting information submitted at varying stages of the application have been raised. Additional and amended information has been submitted at the request of the City Council to make a full assessment of the scheme.
- The outline application is part of the site's relevant planning history. This application is a full application for a new dwelling and the conditions of the outline permission do not need to be satisfied as part of this application.
- The scale of development does not warrant control over the construction phase of the development. Matters regarding the access is a matter between the applicant and other who own and/or have a right of way over the land.

Conclusion

The proposal would make a modest positive contribution to housing supply and would have an acceptable impact upon the amenity and privacy of the occupiers of neighbouring properties. It would make acceptable provision for parking and access onto the site and would not give rise to unacceptable conditions on the surrounding highway network. Appropriate provision for the disposal of surface water from the development would be made. The proposed development would not have an adverse impact on the setting of the locally listed buildings and although the loss of the ridge and furrow is regrettable, the medieval site is relatively small compared to other sites within the City. The submitted surveys and their findings would make appropriate provision for the protection and enhancement of biodiversity.

Regardless of the reduced weight given to out of date housing supply policies I consider the proposed development would be in accordance with the NPPF 2019, the Core Strategy and City of Leicester Local Plan. The proposal would also be in accordance with the Residential Amenity SPD.

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

CONDITIONS

1. The development shall be begun within three years from the date of this permission. (To comply with Section 91 of the Town & Country Planning Act 1990.)
2. Prior to commencement of development, the materials to be used on all external finishes shall be submitted to and approved in writing by the City Council as local planning authority. (In the interests of visual amenity, and in accordance with Core Strategy policy CS03. To ensure that the details are

agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).

3. Prior to the commencement of development, details of the proposed connection into the combined sewer and approval from Severn Trent Water shall be submitted to and approved in writing by the local planning authority. The property shall not be occupied until the drainage has been installed in accordance with the approved details. It shall be retained and maintained thereafter. (To ensure appropriate drainage is installed in accordance with policy CS02 of the Core Strategy.)
4. Prior to the commencement of development a detailed plan of lighting to be installed within the site which shows the locations of lights, their type of light emittance and wavelength, together with a lux contour map showing the variation in light, shall be submitted and approved in writing by the City Council as local planning authority. The lighting should be designed to cause minimum disturbance to protected species that may inhabit the site with appropriate areas remaining dark and a maximum of 1 lux on vegetated/water areas where considered necessary. The approved scheme shall be implemented and retained thereafter. No additional lighting should be installed without prior approval in writing from the City Council as local planning authority (In the interests of protecting wildlife habitats and in accordance with policy BE22 and policy CS17 Biodiversity of the Core Strategy).
5. Prior to commencement of development details of the type and location of 2 x number of bat bricks/tiles/box; 2 x bird bricks/boxes; 1 x hedgehog boxes to be incorporated within the elevations of the proposed building and/or grounds of the site have been submitted to and agreed in writing with the City Council as local planning authority. The locations should be determined by a licensed Ecologist who should also supervise their installation. The development shall be carried out in accordance with the agreed details and their use monitored for a period of two years following their installation and results submitted annually to the City Council as local planning authority with the agreed features retained thereafter (In the interest of biodiversity and in accordance with Policy CS17 Biodiversity of the Core Strategy).
6. No new development shall take place in relation to the proposal until the applicant has secured the implementation of an appropriate programme of archaeological work in respect of a topographical survey and a supervised watching brief of foundation and intrusive construction works (with provision for progression to excavation if required) to be undertaken by a competent and experienced organisation in accordance with a Written Scheme of Investigation (WSI) which has been submitted to and approved by the City Council as the local planning authority. The scheme must include an assessment of significance, research questions, and:
 - (1) The programme and methodology of site investigation and recording;
 - (2) The programme for post-investigation assessment;

- (3) Provision to be made for analysis of the site investigation and recording;
- (4) Provision to be made for publication and dissemination of the analysis and records of the site investigation; and,
- (5) Provision to be made for archive deposition of the analysis and records of the site investigation.

The development shall take place in accordance with the approved Written Scheme of Investigation.

(To ensure that any heritage assets that will be wholly or partly lost as a result of the development are recorded and that the understanding of their significance is advanced; and in accordance with Core Strategy policy CS18. This is a pre-commencement condition)

7. The development shall not be occupied until the site investigation and post-investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 6 above, and the provision made for analysis, publication and dissemination of results and archive deposition has been secured, unless agreed in writing with City Council as local planning authority. (To ensure that any heritage assets that will be wholly or partly lost as a result of the development are recorded and that the understanding of their significance is advanced; and in accordance with Core Strategy policy CS18)
8. The approved mitigation scheme to minimise disturbance to bats, badgers and other wildlife as recommended in Section 6 of the Preliminary Ecological Assessment – Badgers RT-MME-130163-02 Rev B dated May 2019 and Section 6 Preliminary Ecological Assessment – Bats Report No: RT-MME-130163-03RevA dated April 2019 should be implemented prior to commencement of works and during construction. If evidence of bats or badgers are found during this process all works should cease immediately and any mitigation measures reviewed by the LPA. (To comply with the Wildlife and Countryside Act 1981, the Habitat & Species Regulations 2010 and CS17 of the Core Strategy)
9. Before any equipment, machinery or materials are brought on to the site for the purposes of the development, all existing trees, shrubs or hedges to be retained on the site shall be protected by fencing in accordance with the approved Tree Protection Plan and Arboricultural Method Statement. The protection measures shall be maintained until all equipment, machinery and any surplus materials have been removed from the site. Nothing shall be stored or placed in any protected area in accordance with this condition and no alteration to the ground level shall be made without the prior written approval of the City Council unless this is clearly indicated on the approved plans. (To minimise the risk of damage to trees and other vegetation in the interests of amenity, and in accordance with policy UD06 of the City of Leicester Local Plan and Core Strategy policy CS03.)

10. Prior to occupation all hard and soft landscape works shall be carried out in accordance with approved Plan MEL-394-001 Rev B Proposed Landscaping Portland Towers to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice. The after-care, maintenance and management of any hard and soft landscaped areas will be carried out in accordance with the approved documents. For a period of in perpetuity, the applicant or owners of the land shall maintain all planted material. This material shall be replaced if it dies, is removed or becomes seriously diseased. The replacement planting shall be completed in the next planting season in accordance with the approved landscaping scheme (LEMP) (In the interests of amenity, and in accordance with policy UD06 of the City of Leicester Local Plan and Core Strategy policy CS03 Urban Design, CS17 Biodiversity).
11. All works shall be carried out in accordance with British Standard for Tree Work BS 3998:2010. (In the interests of the health and amenity value of the trees and in accordance with Policy UD06 of the City of Leicester Local Plan and Core Strategy policy CS03.)
12. Works shall be strictly limited to the detail supplied within the Arboricultural Method statement for works and protection of retained trees, unless otherwise submitted to and approved by the City Council as local planning authority. (In the interests of the health and amenity value of the trees, and in accordance with policy UD06 of the City of Leicester Local Plan and Core Strategy policy CS03.)
13. No part of the development shall be occupied until the Sustainable Drainage System (SuDS) for the site has been completed in accordance with the approved details. The Sustainable Drainage System shall be managed and maintained thereafter in accordance with the approved management and maintenance plan. (To reduce surface water runoff and to secure other related benefits in accordance with policy CS02 of the Core Strategy.)
14. Should the development not commence within 12 months of the date of the last protected species survey (Badger survey 13th March 2019, Bat Survey 2nd May 2019)), then a further protected species survey shall be carried out of all buildings [trees and other features] by a suitably qualified ecologist. The survey results and any revised mitigation shall be submitted to and agreed in writing with the local planning authority and any identified mitigation measures carried out in accordance with the approved plan. Thereafter the survey should be repeated annually/biannually and any mitigation measures reviewed by the LPA until the development commences. (To comply with the Wildlife and Countryside Act 1981 (as amended by the CRoW Act 2000), the Habitat & Species Regulations 2010 and CS 17 of the Core Strategy)
15. Before the occupation of the proposed dwelling new windows facing Portland Lodge shall be fitted with sealed obscure glazing (with the exception of top opening light) and retained as such. (In the interests of the amenity of occupiers of Portland Lodge and in accordance with policy PS10 of the City of Leicester Local Plan).

16. This consent shall relate to the following plans and documents:

Proposed Plan, Elevations & Floor Plans - DSA-18057-PL-PRO-01-O received by the City Council as local planning authority on 11/01/2019;

STW Sewer Records & CCTV received by the City Council as local planning authority on 09/03/2019;

Arboricultural Impact Assessment (JCA ref: 14423a/ME Rev 1); Arboricultural Method Statement (JCA ref: 14423b/ME Rev 1); Landscape and Ecological Management Plan (RT-MME-129364-02 rev D); Preliminary Ecological Appraisal with Preliminary Vegetation Sampling (RT-MME-130163-01RevA); Badger Survey (RT-MME-130163-02-RevB) Preliminary Ground Level Bat Roost Assessment of trees (RT-MME-130163-03RevA); Landscape & Ecological Management Plan (MEL-394-001 Rev B; Drainage Layout (FW1667-D-400); Drainage Details Sheet 1 of 2 (FW1667-D-401); Drainage Details Sheet 2 of 2 (FW1667-D-402); Drainage Maintenance Schedule (FW1667 DMS 001) and; Archaeological Desk Based Assessment (ULAS Report No.:2019-032v2) received by the City Council as local planning authority on 08/05/2019.(For the avoidance of doubt.)

NOTES FOR APPLICANT

1. With respect to condition 9 above, any fencing required should be welded mesh panels securely fixed to a scaffold frame work with uprights driven well into the ground and in this case should be in accordance with the approved details. The applicant is advised to visit <http://shop.bsigroup.com/en/ProductDetail/?pid=000000000030213642> to find out further information in respect of BS 5837:2012.
2. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received. This planning application has been the subject of positive and proactive discussions with the applicant during the process.

The decision to grant planning permission with appropriate conditions taking account of those material considerations in accordance with the presumption in favour of sustainable development as set out in the NPPF 2019 is considered to be a positive outcome of these discussions.

Policies relating to this recommendation

- 2006_AM02 Planning permission will only be granted where the needs of cyclists have been incorporated into the design and new or improved cycling routes should link directly and safely to key destinations.
- 2006_AM12 Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01.

- 2006_BE22 Planning permission for development that consists of, or includes, external lighting will be permitted where the City Council is satisfied that it meets certain criteria.
- 2006_PS10 Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
- 2006_UD06 New development should not impinge upon landscape features that have amenity value whether they are within or outside the site unless it can meet criteria.
- 2014_CS02 Development must mitigate and adapt to climate change and reduce greenhouse gas emissions. The policy sets out principles which provide the climate change policy context for the City.
- 2014_CS03 The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'.
- 2014_CS06 The policy sets out measures to ensure that the overall housing requirements for the City can be met; and to ensure that new housing meets the needs of City residents.
- 2014_CS15 To meet the key aim of reducing Leicester's contribution to climate change, the policy sets out measures to help manage congestion on the City roads.
- 2014_CS17 The policy sets out measures to require new development to maintain, enhance and strengthen connections for wildlife, both within and beyond the identified biodiversity network.
- 2014_CS18 The Council will protect and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.