

<b>Recommendation: Conditional approval</b>	
<b>20171160</b>	<b>Malabar Road, Kocha House</b>
Proposal:	Demolition of existing building; construction of four and five storey building to create 10 shops on the ground floor (Class A1) and 27 flats on the first to fourth floors (16 x 1bed, 11 x 2bed) (Class C3) (amended plans 28/10/2019) (S106 Agreement)
Applicant:	MR PATEL
View application and responses	<a href="https://planning.leicester.gov.uk/Planning/Display/20171160">https://planning.leicester.gov.uk/Planning/Display/20171160</a>
Expiry Date:	6 May 2020
WJJ	WARD: Wycliffe



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## Summary

- Brought to the Committee as the recommendation is for approval and more than six objections have been received.
- The main issues are the principle of retail units and dwellings in this area, the character and appearance of the area, highway and parking concerns, the amenity of neighbouring dwellings and the quality of living environment for future residents
- The petition with thirty names and the two objection letters raise concerns regarding the impact of the scheme on parking and traffic congestion, the light enjoyed by neighbouring properties, education provision and the impact of demolition and redevelopment on businesses who occupy the existing building.

- The application is recommended for Approval subject to conditions and the completion of a S106 Agreement to secure developer contributions to off-site green space, on-site affordable housing and education.

## **Introduction**

The site consists of a two-storey building on the western side of the site and a surface car park, surrounded by a wall, on the east. The ground floor is in retail use and the upper floors are storage space and offices.

The site lies within a Primarily Employment Area just off the Humberstone Road and inner ring road. To the north and west of the application site is the largely residential St Matthews Estate. On the north side of Malabar Road is the Malabar Road Local Centre.

The site is within an Air Quality Management Area (AQMA). The site is close to a known source of pollution, the St Matthews Petrol Service Station.

With regards to flooding from fluvial sources the site is within Flood Zone 1 with a less than 1 in 1000 year estimated risk of flooding. With regards to flooding from pluvial sources the site is within a Critical Drainage Area. Although flooding from pluvial sources is unlikely to take place here the rapid run-off of surface water from this area may result in flooding in neighbouring Hotspots.

## **Background**

The historic maps show the area was developed by the 1880s. Brunswick Street, Malabar Road and Madras Street were in place. However, at that time Malabar Road was called Dysart Street and Madras Street was Curzon Street. The form of development consisted of small plots and buildings. Over time these were amalgamated into larger plots and the larger buildings that currently exist within this block were built. These include a number of reasonably tall warehouse/factory buildings with impressive frontages to Brunswick St.

From the 1950's to the 1970's much of the area nearby, including the street layout, was cleared and redeveloped for the largely residential St Matthews Estate, the Malabar Road Local Centre and the inner ring road. The block in which the application site is located, along with some of the streets nearby, is one of the remaining blocks from before that time.

In the late 1980's and early 1990's the St Matthews Estate was refurbished. This involved removing or improving some of the negative design features from the redevelopment of the 1950's to the 1970's.

The current two storey building seems to date from, or shortly after, 1960 and was built as a clothing factory. By 1963 the use had changed to a television repair workshop, stores and offices. By 1973 it appears to have been being used solely as an office. Since then a number of change of uses have been permitted and a number of uses taken place including five shops (Class A1), a factory (Class B1), warehouse (Class B8), flats (Class C3) and community use and training centre (Class D1).

The ground floor is currently used for retail units. The first floor is used for storage space and offices.

## The Proposal

The proposal is to demolish the existing two-storey building and construct a building with retail uses on the ground floor and flats above.

The proposed building would occupy the whole of the site and would not have any parking within it. This is in contrast to the existing situation where the building occupies the western and middle parts of the site and there is a surface car park on the eastern side that can take around nine cars.

This application was originally for a six and seven-storey building with nine retail units on the ground floor and forty-five flats above (19 x 1bed & 26 x 2bed).

The scale of the building has been amended so it is now a four and five storey building. The amended plans retain the retail uses on the ground floor. These have been reconfigured so there are now ten. On the upper floors are now twenty-seven flats (16 x 1bed & 11 x 2bed). For many of the flats private balconies are proposed and a rooftop communal garden is proposed on the eastern side of the fourth floor.

## Policy Considerations

### National Planning Policy Framework (NPPF) February 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:

*'c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. 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*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'*

The City does not currently have a five-year deliverable land supply for housing. Developer contributions. The following paragraphs are particularly relevant to viability matters.

Paragraph 54 states that *'Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.'*

Paragraph 56 states that *'Planning obligations must only be sought where they meet all of the following tests:*

- a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.'*

Sequential Test for Retail. The following paragraphs are particularly relevant to the sequential test for retail uses.

Paragraph 87 states that *'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.'*

Paragraph 87 states that *'When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.'*

Transport. The following paragraphs are particularly relevant to the transport related aspects of the scheme.

Paragraph 108 states that *'In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.'*

Paragraph 109 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.'*

Paragraph 110 states that *'Within this context, applications for development should:*

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or*

*other public transport services, and appropriate facilities that encourage public transport use;*

*b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*

*c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*

*d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and*

*e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*

Design. The following paragraphs are particularly relevant to design matters.

*Paragraph 124 states that ‘The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.’*

*Paragraph 127 states that ‘Planning policies and decisions should ensure that developments:*

*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 users; and where*

*crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'*

Climate change aspects. The following paragraph is particularly relevant to climate change matters.

Paragraph 153 states that *'In determining planning applications, local planning authorities should expect new development to:*

*a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and*

*b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.'*

Sustainable Drainage aspects. The following paragraph is particularly relevant to sustainable drainage matters.

Paragraph 165 states that *'Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*

*a) take account of advice from the lead local flood authority;*

*b) have appropriate proposed minimum operational standards;*

*c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*

*d) where possible, provide multifunctional benefits.'*

Habitat and biodiversity aspects. The following paragraphs are particularly relevant to habitats and biodiversity matters.

Paragraph 170 states that *'Planning policies and decisions should contribute to and enhance the natural and local environment by:*

*d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;'*

Paragraph 175 states that *'When determining planning applications, local planning authorities should apply the following principles:*

*d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.'*

### Other policy

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

Supplementary Planning Document – Tall Buildings  
Supplementary Planning Document - Employment Land  
Supplementary Planning Document – Residential Amenity  
Supplementary Planning Document – Green Space  
Supplementary Planning Document – Affordable Housing  
The 6Cs Design Guide (Highway Guidance)

Leicester City Council Waste Management guidance notes for residential properties  
Technical housing standards – nationally described space standard – March 2015  
(National Space Standards).

City of Leicester Local Plan (2006). Saved policies. Appendix 1: Parking Standards  
National Design Guide (Ministry of Housing, Communities & Local Government)

### **Consultations**

#### Highway Authority

The site is in a highly sustainable location in terms of transport. It is close to the city centre, the Malabar Road Local Centre, areas with employment uses and public transport. Staff, customers and residents of the proposal may not be solely reliant on the use of a car for all their journeys.

For when a car is needed, Lee Circle public car park is a relatively short distance away. The surrounding roads do have a reasonably high level of on-street car parking controls in place. However, the City Council Parking Enforcement use significant resources to address parking related problems that arise in this area. Double parking, parking on the footway and parking on double yellow lines has been witnessed by officers. It is therefore clear that the area suffers from existing parking issues and that the level of parking currently available is insufficient to cater for existing demand.

The City Council's Neighbourhood Housing Team have funded and seen installed additional car parking spaces that seek to cater for existing parking demand from residents. Further locations where car parking spaces could be created on-street through the alteration of Traffic Regulation Orders (TROs) would be along Malabar Road near Prince Phillip House. Nine spaces can be provided. This equals the number of spaces that will be lost from the existing on-site car park.

There have been a relatively large number of reported road traffic accidents within a very short distance of the site. Within the latest five years of data, there have been fourteen recorded accidents on Malabar Road, Madras Road, Ottawa Road, Crafton Street and Brunswick Street. A number of these accidents involved vehicles that were parked, stopping, starting and sometimes more than one of these.

The high demand for on-street car parking indicates that, despite the site being in a sustainable location, there is likely to be a demand to use cars by the future staff, customers

and residents of this scheme. As such a sizeable development with no off-street car parking is likely to result in an increase in demand for on-street car parking. Given the current shortfall in on-street car parking spaces, the proposal may lead to an increase in indiscriminate parking. This may include parking on the street in restricted areas, parking across dropped kerbs, parking on verges and pavements. This would be detrimental to the good functioning of the highway and to highway safety in an area that has a relatively high accident rate.

Therefore, in the light of comments above, the Local Highway Authority raises concerns about the impact of removing a small development with an off-street car park and replacing it with a much larger scheme with no off-street car parking. It is likely to result in an increased demand for on-street car parking and servicing in an area where supply currently is less than demand. This may result in actions that lead to increased danger for highway users; particularly for pedestrians and cyclists.

Should the scheme be desirable on planning balance then the scheme should be managed to promote sustainable forms of transport and to promote highway safety. These include:

- Amending Traffic Regulation Orders (TROs) at developer expense to increase the provision of on-street car parking spaces. The potential to provide nine on-street parking spaces through alterations to TROs has been identified. This would involve removing single and double yellow lines on Malabar Road near the Prince Phillip Centre. This would equal the loss of the nine car parking spaces in the existing on-street car park and would go some way to mitigating the potential on-street parking impact of the whole scheme.
- A Travel Plan for the development to manage delivery arrangements and promote the use of sustainable means of transport.
- Travel Packs for new residents to promote the use of sustainable means of transport.

The applicant has stated they will pay for the costs of altering the TROs.

The scheme has been designed to provide a high level of cycle parking. Our current cycle parking guidance suggest one space per two bed spaces, with one visitor space per twenty bed spaces for the residential element and one space per 400sqm for staff and one space per 1000sqm for customers using the retail element.

The scheme will provide forty-two cycle parking spaces. This is significantly above our current guidance that indicates around seventeen cycle spaces should be provided. The high level of cycle parking may help to offset the impact of the lack of vehicle parking.

#### Highway Authority, Air Quality

An Air Quality Assessment has been submitted with the application. It is unlikely that residents will be subjected to unacceptable levels of air pollution.

#### Lead Local Flood Authority (LLFA)

No objection subject to a condition to secure a Sustainable Drainage System (SuDS).

#### Waste Management

The bin store is acceptable and should be secured by condition.

### Estates & Building Services, Better Buildings

The scheme will connect to the district heating network which will provide heating and hot water. PV panels will be installed on the roof and a range of measures to minimise energy use are also proposed such as low flow taps and toilets, high air tightness and natural ventilation. This is acceptable and can be secured by condition.

### Environmental Services, Noise Team

Details of noise insulation and ventilation have been submitted. They are acceptable and can be secured by condition.

### Environmental Services, Land contamination

There is the potential that the land has been contaminated from past uses. This needs to be investigated and, should contaminants be found, cleaned up. This can be secured by condition.

### Environmental Services, Parks Service

The proposed residential development, within the Wycliffe ward, will result in a net increase in the number of residents within an area which already exhibits a deficiency in green space. Opportunities to create new open space to address the needs of the new residents are severely limited and therefore we will be looking to make quality improvements to existing green space provision to minimise the impact of this development.

Based on the amended proposals and by applying the formula from the Green Space SPD, a contribution of £31,738 is required for improvements to existing green space within the local area of this development. The contribution would be used to fund quality improvements to Kamloops Crescent open space and Taylor Road open space.

### Education

The site is within the Primary North planning area. This faces a deficit of pupil places both before and after any places for other developments are offset. Calculated demand from this development before offsetting against any surplus is three places. Because the calculated demand from this development increases the deficit, the number of places is not adjusted. The Primary contribution comes to £12,866.08.

The Primary schools identified for the potential demand for these additional spaces and located within one mile are: Abbey Primary Community School, Bridge Junior School, Catherine Infant School, Catherine Junior School, Charnwood Primary School, Green Lane Infant School, Highfields Primary School, Medway Community Primary School, Sacred Heart Catholic Primary School, Shenton Primary School, Slater Primary School, Sparkenhoe Community Primary School, Spinney Hill Primary School & Community Centre, Taylor Road Primary School, Uplands Infant School, Uplands Junior L.E.A.D Academy.

There is one Secondary School planning area for the city. The Secondary School Planning area faces a deficit of pupil places both before and after any places for other developments are offset. Calculated demand from this development before offsetting against any surplus is one place. Because the calculated demand from this

development increases the deficit, the number of places is not adjusted. The Secondary contribution comes to £7,453.47.

Secondary Schools identified for the potential demand for these places and located within 2 miles are: Beaumont Leys School, Crown Hills Community College, English Martyrs Catholic School, Fullhurst Community College, Madani Boys School, Madani Girls School, Moat Community College, Rushey Mead Academy, Soar Valley College.

The total contribution for Education comes to £20,319.55.

### Housing Service

The applicant has indicated they intend this development to be for the Private Rental Sector (PRS) accommodation. In line with the Core Strategy Policy 7 and the SPD on Affordable Housing, 20% of such units should be for Affordable Private Rent. For twenty-seven flats five flats should be provided as Affordable Private Rent. These should consist of 3 x 1 bed/2 person flats and 2 x 2 bed/4 person flats

### **Representations**

A petition with thirty signatures has been received. Two objection letters have been received. Grounds:

- There are existing problems with parking and traffic congestion in this area; including parking on the forecourt of St Matthews Service Station. The proposed scheme will make these worse.
- A seven-storey building will reduce light to neighbouring properties (the scheme has now been reduced to four and five storeys)
- The petition expresses the view that Taylor Road Primary School is already full and raises concerns as to the impact of the scheme on education provision.
- A manager of one of the shops in the existing building has expressed concern that their business would struggle should the existing building be demolished.

### **Consideration**

#### Principle

##### *Non-employment uses*

The site is within a Primarily Employment Area where employment related uses (usually B Class uses) are usually sought and retained. However, retail units have operated from the ground floor of the existing building for many years. The first floor is in use for storage space and offices. The 2016 Valuation Office Agency (VOA) data shows that the industrial rateable value is low. The building is not a modern portal frame, which is the preferred format for most businesses. Given these elements non-employment related uses are acceptable here.

##### *Retail uses*

The proposal will increase the amount of retail floorspace offered on this site as it will include building over the existing surface car park on the eastern side of the site. 330sqm of retail will be lost when the existing building is demolished and 415sqm will be provided in the proposed building. This is an increase of about 26%.

Paragraph 86 of the NPPF and policy CS11 in the Core Strategy require main town centre uses (this includes retail uses) to be directed in the first instance to a shopping centre before edge-of-centre and then out-of-centre locations are considered appropriate. The development site is classed as an edge of centre location.

The site is opposite the Malabar Road Local Centre. There are few locations in the city where Local Centres can be extended. A retail study was undertaken as part of the evidence base to support the Council's new Emerging Local Plan (Leicester City and Blaby Town Centre and Retail Study of September 2015). This study carried out health checks for all the local centres in the City and considered whether boundaries should be altered. The study recommended extending the boundary of the Malabar Road Local Centre to incorporate existing surrounding retail uses. This includes the existing retail units on the application site. At this stage the change to the boundary of the local centre is only a recommendation of the study. To actually change the boundary of the centre the Local Plan and proposals map would need to go through various local plan and consultation stages as well as the Local Plan examination in public.

Given the existing building has retail units on the ground floor, that it is in an edge-of-centre location, and that the Leicester City and Blaby Town Centre and Retail Study of September 2015 took the view that the Malabar Road Local Centre should be expanded, I consider the proposed ground floor retail units to be acceptable.

#### *Dwellings*

The site is close to the residential area of St Matthews. It currently has retail units on the ground floor and retail units are proposed for the new building. Dwellings above retail units are desirable as they can make an efficient use of land, provide activity during hours when the retail units are closed and provide active frontage to the street. I consider the proposed dwellings on the upper floors to be acceptable.

#### Character and appearance

The area is characterised by the meeting of a number of townscapes. To the north is the St Matthews Estate with a street layout, dwellings and local centre that mostly date from when it was built from the 1950's to the 1970's. The application site is within a block defined by an older street layout. For many years this has included buildings of an employment nature; the tall warehouse/factory buildings with impressive frontages to Brunswick St in particular. There are a number of blocks like this located on the south side of the St Matthews Estate, the south sides of Humberstone Road and the inner ring road (at this point St Matthews Way and St George's Way). The area in and around the inner ring road is a third townscape characterised by the wide roads, roundabout, verges and planting.

On the far sides of Malabar Road and Brunswick Street are four-storey blocks of flats. The St Matthews Local Centre is a purpose built complex and varies from two to four (or equivalent) storeys in height. Facing Brunswick Street from within the same block as the application site are four storey warehouse/factory buildings with impressive frontages. Compared with the modern dwellings and Local Centre complex buildings in the area these are taller as the floor to ceiling heights are greater.

In the context of these existing buildings the proposed four to five storey building will fit in to the existing townscape and provide a building appropriate for the existing area that is mostly densely developed and close to the city centre.

From the rear the proposed building will be largely obscured by the existing buildings within the block. A large expanse of plain brickwork, forming the rear elevation, will not be visible.

From the front the building will provide active frontage to Malabar Road and smaller amounts from the sides to Brunswick Street and Madras Road.

The existing site boundary and the pavement already cut the corners of Malabar Road/Brunswick Street and Malabar Road/Madras Road on the diagonal. This ensures good pedestrian movement around the corners. The design of the building makes use of these diagonals to create a corner feature. The plans show a palette of materials consisting of light and dark grey bricks, white render and glass balcony balustrades. Some of the windows will have an aluminium surround. To ensure the quality of the design is maintained through the use of appropriate materials I recommend these are secured by condition.

The proposed building has two main pedestrian entrances from Malabar Road. These are wide and light from glazing in the doors and windows. They should provide good entrances for residents and active frontage to the street.

#### Residential amenity *Of neighbours*

For this scheme the biggest concern is the effect on properties to the north and west and especially the residential properties. To the south the properties are in commercial uses. The impact on them is acceptable. The nearest distances to the properties to the north and west are approximately as follows and all are across streets:

- 18m to one of the main elevations of 46-60 Brunswick Street
- 28m to the side wall of 159-167 Ottawa Road
- 35m to one of the main elevations of Everest Court
- 16m to the Malabar Road Local Centre complex

Appendix G of the SPD for Residential Amenity gives the following separation distances as guidance:

- 15m where facing a blank wall
- 18m where windows face each other obliquely
- 21m where windows face each other directly

Caution should be taken in using these measures as they are not generally applied to across street situations. This is a different urban form to the denser and often higher forms that are often close to the city centre such as here.

Given the dense urban form of this area, the distances involved, the orientation of buildings, the type of uses and that all of these properties are on the other sides of streets I consider these separation distances are acceptable.

The application includes shadow diagrams to indicate the impact of the scheme on the light enjoyed by neighbouring properties. It shows that the scheme will cast a shadow over the flats at Everest Court, and the Local Centre (which contains shops, a community centre on the western side and flats above the shops on the eastern side) on the north side of Malabar Road at 0900 and 1200 in December. The diagram indicates that in March, June and September shadows cast at 0900, 1200 and 1500 do not overshadow the flats. A shadow reaches the edge and goes over parts of the Local Centre in March and September at 1200 and 1500. The shadow from the proposed building will be longer than the shadow cast by the existing buildings. However, in terms of the impact on neighbouring dwellings, a similar shadow is currently cast by the existing buildings within the block and by the flats on the south side of Ottawa Road (Malabar Road becomes Ottawa Road to the west of the application site). Given the impact of the existing buildings, and that the shadow will have most impact on the shops and community centre, and minimal impact on flats, I consider this impact to be acceptable.

#### *Of residents*

All flats will comply with Category M4(2) of the Building Regulations. This will ensure the flats will be reasonably adaptable to the changing needs of residents over the course of their lives.

While the National Space Standards are of relevance to schemes such as this, the Council have not adopted them, and therefore their weight is limited. The National Space Standards for a one-bedroomed flat is a minimum of 37sqm and 61sqm for a two bedroomed flat.

The flats range in size from 43sqm-72sqm. The proposed flats will have acceptable outlook over the street and twenty-one of the twenty-seven flats have balconies. Given this, and the provision of a communal garden on the roof of the fourth floor, I consider the size of the flats to be acceptable.

The Residential Amenity SPD indicates that one-bedroomed flats should have outdoor amenity space of 1.5sqm and two-bedroomed flats should have 2sqm (or the equivalent in a communal garden). For six one-bed and eleven two-bed flats this comes to 31sqm. The communal rooftop garden on the fourth floor is approximately 280sqm. I consider the scheme is well provided for in terms of outdoor amenity space and I recommend this is secured by condition.

The site is close to a number of significant sources of noise. The scheme includes shops on the ground floor and is opposite a Local Centre. The Humberstone Road is nearby. The scheme includes a noise insulation and ventilation scheme. This should ensure the amenity of residents is acceptable and I recommend it is secured by condition.

An Air Quality Assessment has been submitted with the application. It is unlikely that residents will be subjected to unacceptable levels of air pollution.

#### Highway and parking matters

In recent years developments without any car parking have been accepted by the City Council in the city centre. Many developers have brought forward city centre schemes

without parking on the understanding their customers can use sustainable means of transport. In suburban locations a high level of parking spaces still tends to be provided.

Urban areas that are close to the city centre and public transport provision typically have a dense urban form that has some space for on-street parking but is too dense to have large amounts of space for off-street parking. Residents and businesses in the area struggle with a scarcity of highway and parking relative to demand. On the other hand, providing lots of highway and parking undermines the qualities that these densely developed areas have. To help manage the limited supply of parking space in these areas residents parking schemes have been introduced in many areas.

The application site currently has a two-storey building and a surface car park that can accommodate around nine cars. These do not make a large contribution to the qualities of this densely developed area. Redevelopment of this site offers the opportunity to replace this with a scheme where car parking is not prioritised and with a scale of building appropriate for an inner urban area.

For redevelopment, providing on-site car parking has significant site-specific drawbacks. These include:

- The loss of space for other uses, such as retail and dwellings, that may be more appropriate for this densely developed area.
- The loss of uses, doors and windows that would provide an active frontage to the street.
- The site is thin. The amount of space for car parking will be low in proportion to the space needed for vehicle access and manoeuvring.
- Creating further accesses for on-site car parking may require the loss of some existing on-street parking.

I recognise the difficulties with parking in this area. However, on balance, I consider inner urban areas are not appropriate areas for parking to be prioritised on new developments. The benefits of development outweigh the benefits of providing on-site parking.

The potential to provide nine on-street parking spaces through alterations to TROs has been identified. This would involve removing single and double yellow lines on Malabar Road near the Prince Phillip Centre. This would equal the loss of the nine car parking spaces in the existing on-street car park and would go some way to mitigating the potential on-street parking impact of the whole scheme. The applicant has stated they are prepared to pay for the cost of altering the TROs and the potential for this alteration can be secured by condition.

The proposed scheme will provide plenty of space for cycle parking. Residents can be encouraged to use sustainable means of transport through a travel plan and by providing them with travel packs. The reinstatement of kerbs for the existing parking area and new dropped kerbs for bin stores can be provided. I recommend these are secured by condition.

I therefore consider this scheme is acceptable in highway terms.

### Land contamination

The site may be contaminated from past uses. Redevelopment offers the opportunity to clean up contaminants that may be there. I recommend this is secured by condition.

### Waste

The bin store is acceptable and can be secured by condition.

### Wildlife

A protected species survey has been received with the application. It reports the building did not have any protected species at the time of the survey and is unlikely to house any in future. This is accepted.

A brown or green roof on the roof of the fifth floor plus planting within the communal garden on the fifth floor can provide some wildlife habitat as well as contribute to the Sustainable Drainage System (SuDS). I recommend these are secured by condition. The brown or green roof, planting within the communal garden, bat and bird boxes will provide a biodiversity net gain for this scheme in accordance with paragraph 170 of the NPPF.

### Energy

The scheme will connect to the district heating network which will provide heating and hot water. PV panels will be installed on the roof and range of measures to minimise energy use are also proposed such as low flow taps and toilets, high air tightness and natural ventilation. This is acceptable and I recommend it be secured by condition.

### Water Environment

A SuDS to reduce the rate of surface water runoff and provide residential amenity, water cleaning and wildlife habitat benefits will be provided. I recommend a condition be attached to ensure the details are acceptable and it is provided.

I recommend a condition be attached to ensure foul drainage is acceptable.

### Developer contributions

The developer has agreed to make contributions to green space, education and affordable housing. A S106 Agreement is being drafted to secure these contributions.

#### *Green Space*

A contribution of £31,738 to fund quality improvements to Kamloops Crescent open space and Taylor Road open space is required to cater for the likely impact of the scheme from future residents.

#### *Education*

A contribution of £20,319.55 to fund quality improvements to local education provision is required to cater for the likely impact of the scheme from future residents.

#### *Affordable Housing*

The applicant has agreed to provide the following as Affordable Private Rent to contribute towards the affordable housing need in the city:

- 3 x 1 bed/2 person flat to National Accessible and Adaptable Standard M4(2)
- 2 x 2 bed/4 person flat to National Accessible and Adaptable Standard M4(2)

### Other matters

A manager of one of the existing shops in the building has expressed concern that their business may struggle if the existing building is demolished. The management of businesses while the buildings they are in are demolished is outside the scope of the Planning system. When compared with the existing building the proposed building will increase the overall space for retail uses by 26%.

### Conclusion

With numerous flats and retail units and an active frontage to the street the scheme will make a positive contribution to the appearance and vitality of the area. It will provide retail units that will complement the existing Malabar Road Local Centre and make a contribution towards the need for housing in the city. It will provide a building of suitable scale and density, making efficient use of land, for a densely developed neighbourhood close to the city centre.

There are concerns regarding the potential impact of the scheme on problems relating to car parking in the area. However, on balance, I consider the potentially harmful impact to be outweighed by the positive aspects of the scheme. In accordance with paragraph 11 of the NPPF, in approving this scheme, the 'adverse impacts of doing so would (not) significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.'

I therefore recommend APPROVAL subject to conditions and the completion of a S106 AGREEMENT to secure developer contributions to green space, affordable housing, and education

### 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 the commencement of development the site shall be investigated for the presence of land contamination. A Site Investigation Report incorporating a risk assessment and, if required, scheme of remedial works to render the site suitable and safe for the development, shall be submitted to and approved in writing by the City Council as local planning authority. The approved remediation scheme shall be implemented and a completion report shall be submitted to and approved in writing by the City Council as local planning authority before any part of the development is occupied. Any parts of the site where contamination was previously unidentified and found during the development process shall be subject to remediation works that are carried out and approved in writing by the City Council as local planning authority prior to the occupation of the development. The report of the findings shall include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments; (iii) an appraisal of remedial

options, and proposal of the preferred option(s). This shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. (To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved policy PS11 of the City of Leicester Local Plan.) (To ensure that the details are approved in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition.)

3. No retail unit or flat shall be occupied until evidence has been submitted to and approved in writing by the City Council as local planning authority demonstrating all the measures in the Sustainable Energy Statement (dated the 28th of April 2018) have been installed. They shall remain in place thereafter. (In the interests of securing energy efficiency in accordance with policy CS02 of the Core Strategy.)
4. No retail unit or flat shall be occupied until evidence has been submitted to and approved in writing by the City Council as local planning authority demonstrating all the measures in the noise insulation and ventilation scheme approved as part of this application (Sanctuary Acoustics, April 2017) have been implemented. They shall be retained thereafter. (To protect residents from unacceptable levels of noise and in accordance with policies PS10 & PS11 of the City of Leicester Local Plan.)
5. Prior to the commencement of above ground development details of 3 x bat bricks/tiles/boxes; 3 x bird bricks/boxes and 3 x invertebrate boxes to be incorporated within or on the elevations of the proposed building shall be submitted to and approved in writing by the City Council as local planning authority. The locations shall be determined by an ecologist who shall also supervise their installation. Prior to the occupation of any flat or retail unit they shall be installed in accordance with the approved details. They shall be retained for the lifetime of the development. (In the interest of biodiversity and in accordance with policy CS17 of the Core Strategy.)
6. No retail unit or flat shall be occupied until a brown or green roof has been installed on the roof of the fifth floor in accordance with details first submitted to and approved in writing by the City Council as local planning authority. It shall be retained for the lifetime of the development. (In the interest of biodiversity and to reduce the rate of surface water run off in accordance with policies CS02 and CS17 of the Core Strategy.)
7. No flat shall be occupied until the rooftop garden on the fifth floor has been laid out in accordance with details first submitted to and approved in writing by the City Council as local planning authority. It shall be retained thereafter. (To provide residents with acceptable levels of amenity and in accordance with policy PS10 of the City of Leicester Local Plan.)

8. No retail unit or flat shall be occupied until bin storage has been provided in accordance with the approved plans. It shall be retained thereafter. (In the interests of the satisfactory development of the site and in accordance with policy CS03 of the Core Strategy.)
9. No retail unit or flat shall be occupied until secure and covered cycle parking has been provided in accordance with details first submitted to and approved in writing by the City Council as local planning authority. It shall be retained thereafter. (In the interests of the satisfactory development of the site and in accordance with policies AM02 and H07 of the City of Leicester Local Plan.)
10. Prior to the commencement of above ground development details of all street works, including alterations to footway crossings, shall be submitted to and approved in writing by the City Council as local planning authority. Prior to the occupation of any retail unit or flat all streetworks must be implemented in full accordance with the approved details. (To achieve a satisfactory form of development, and in accordance with policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS3.)
11. Development shall not commence until any necessary amendments have been made to Traffic Regulation Orders (TROs) for the surrounding roads to increase on-street car parking capacity. The Development shall not be occupied until the works authorised by the TRO's referred to above have been completed. (In the interests of highway safety and in accordance with saved policy AM01 of the City of Leicester Local Plan and Core Strategy policies CS03 and CS14.) (To ensure that the details are approved in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition.)
12. No retail unit or flat shall be occupied until a Travel Plan for the scheme has been submitted to and approved in writing by the City Council as local planning authority and shall be carried out in accordance with a timetable to be contained within the Travel Plan, unless otherwise agreed in writing by the City Council as local planning authority. The Plan shall: (a) assess the site in terms of transport choice for staff, users of services, visitors and deliveries; (b) consider pre-trip mode choice, measures to promote more sustainable modes of transport such as walking, cycling, car share and public transport (including providing a personal journey planner, information for bus routes, bus discounts available, cycling routes, cycle discounts available and retailers, health benefits of walking, car sharing information, information on sustainable journey plans, notice boards) over choosing to drive to and from the site as single occupancy vehicle users, so that all users have awareness of sustainable travel options; (c) identify marketing, promotion and reward schemes to promote sustainable travel and look at a parking management scheme to discourage off-site parking; (d) include provision for monitoring travel modes (including travel surveys) of all users and patterns at regular intervals, for a minimum of 5 years from the first occupation of the development brought into use. The plan shall be maintained and operated thereafter. (To promote sustainable transport and in accordance with policies AM01, AM02, AM11 and AM12 of the City of Leicester Local Plan and policies CS14 and CS15 of the Core Strategy).

13. Within one month of the first occupation of any flat, the occupiers of each of the flats shall be provided with a 'New Residents Travel Pack'. The contents of this shall be submitted to and approved in writing, in advance, by the City Council as local planning authority and shall include walking, cycling and bus maps, latest relevant bus timetable information and bus travel and cycle discount vouchers. (In the interest of sustainable development and in accordance with policy AM02 of the City of Leicester Local Plan and policy CS14 of the Core Strategy).
14. Prior to the commencement of development a Construction Method Statement shall be submitted to, and approved in writing by the City Council as local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for: (i) the parking of vehicles of site operatives and visitors; (ii) the loading and unloading of plant and materials; (iii) the storage of plant and materials used in constructing the development; (iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; (v) wheel washing facilities; (vi) measures to control the emission of dust and dirt during construction; (vii) a scheme for recycling/disposing of waste resulting from demolition and construction works. (To ensure the satisfactory development of the site, and in accordance with policies AM01, UD06 of the City of Leicester Local Plan and Core Strategy policy CS03.) (To ensure that the details are approved in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition.)
15. The flats and their associated approach shall be constructed in accordance with 'Category 2: Accessible and adaptable dwellings M4 (2) Optional Requirement. On completion of the scheme and prior to the occupation of any of the flats a completion certificate signed by the relevant inspecting Building Control Body shall be submitted to and approved in writing by the City Council as local planning authority certifying compliance with the above standard. (To ensure the flats are adaptable enough to match a lifetime's changing needs in accordance with Core Strategy policy CS06.)
16. Prior to the commencement of development full details of the Sustainable Drainage System (SuDS), together with implementation, long term maintenance and management of the system shall be submitted to and approved in writing by the City Council as local planning authority. No flat or retail unit shall be occupied until the system has been implemented. It shall thereafter be managed and maintained in accordance with the approved details. Those details shall include: (i) full design details, (ii) a timetable for its implementation, and (iii) a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the system throughout its lifetime. (To reduce surface water runoff and to secure other related benefits in accordance with policy CS02 of the Core Strategy). (To ensure that the details are approved in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition.)

17. Prior to the commencement of development details of drainage, and especially foul drainage, shall be submitted to and approved in writing by the City Council as local planning authority. No retail unit or flat shall be occupied until the drainage has been installed in accordance with the approved details. It shall be retained and maintained thereafter. (To ensure appropriate drainage is installed in accordance with policy CS02 of the Core Strategy.) (To ensure that the details are approved in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition.)
18. Prior to the commencement of above ground construction, the materials to be used for all external surfaces shall be submitted to and approved in writing by the City Council as local planning authority. Development shall be carried out in accordance with the details approved. (In the interests of visual amenity, and in accordance with Core Strategy policy CS3.)
19. This consent shall relate solely to the submitted and amended plans ref. no. DSA-16146-PL-PRO-03-G, 04-G, 05-G, 06, 07 received by the local planning authority on 28th of October 2019 unless otherwise submitted to and approved by the local planning authority. (For the avoidance of doubt.)

#### NOTES FOR APPLICANT

1. Please note this permission is subject to a S106 Agreement that has secured developer contributions to green space, affordable housing and local education provision.
2. To meet condition 15 all those delivering the scheme (including agents and contractors) should be alerted to this condition, and understand the detailed provisions of Category 2, M4(2). The Building Control Body for this scheme must be informed at the earliest opportunity that the units stated are to be to Category 2 M4(2) requirements. Any application to discharge this condition will only be considered if accompanied by a building regulations completion certificate/s as stated above.
3. The Highway Authority's permission is required under the Highways Act 1980 and the New Roads and Street Works Act 1991 for all works on or in the highway. For new road construction or alterations to existing highway the developer must enter into an Agreement with the Highway Authority. For more information please contact [highwaysdc@leicester.gov.uk](mailto:highwaysdc@leicester.gov.uk) As the existing building abuts the highway boundary, any barriers, scaffolding, hoarding, footway closure etc. required for the construction works to be undertaken will require a licence. This should be applied for by emailing [Licensing@leicester.gov.uk](mailto:Licensing@leicester.gov.uk)
4. With regards to the Travel Pack related condition, the contents of the pack are intended to raise the awareness and promote sustainable travel, in particular for trips covering local amenities. The applicant should seek advice from Bal Minhas (Leicester City Council's Travel Plan Officer via telephone 0116 4542849).

5. The costs for the alterations of the Traffic Regulation Orders (TROs) shall be funded by the Applicant. The Applicant is advised to contact Ed Kocik in the Traffic Management section (0116 454 3714) to discuss the requirements to enable the TRO to be processed.
6. 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 application process and pre-application. The decision to grant planning permission with appropriate conditions and a S106 legal agreement, 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**

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| 2006_AM01 | Planning permission will only be granted where the needs of pedestrians and people with disabilities are incorporated into the design and routes are as direct as possible to key destinations.  |
| 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_AM11 | Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.  |
| 2006_AM12 | Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01.  |
| 2006_BE10 | In developments involving a new shopfront, the design should be an integral part of the whole building and should be in proportion to the lines of the facade of which it forms a part.  |
| 2006_BE11 | Planning permission for the fitting of external security measures including roller shutters and grilles will only be approved where a special need for external security exists.   |
| 2006_E03  | Planning permission granted for the development of appropriate B1, B2 and B8 uses in Primarily Employment Areas and not for changes to other uses unless it meets criteria.  |
| 2006_H03  | Provides guidance on minimum net densities to be sought for residential development sites according to location.   |
| 2006_H07  | Criteria for the development of new flats and the conversion of existing buildings to self-contained flats.  |
| 2006_PS10 | Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.   |
| 2006_PS11 | Control over proposals which have the potential to pollute, and over proposals which are sensitive to pollution near existing polluting uses; support for alternative fuels etc.   |
| 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\_CS07 New residential development should contribute to the creation and enhancement of sustainable mixed communities through the provision of affordable housing. The policy sets out the broad requirements for affordable housing.
- 2014\_CS08 Neighbourhoods should be sustainable places that people choose to live and work in and where everyday facilities are available to local people. The policy sets out requirements for various neighbourhood areas in the City.
- 2014\_CS10 The Council will seek to ensure that Leicester has a thriving and diverse business community that attracts jobs and investment to the City. The policy sets out proposals to achieve this objective.
- 2014\_CS11 The Council supports a hierarchy of retail centres in Leicester. The policy sets out measures to protect and enhance retail centres as the most sustainable location for retail development.
- 2014\_CS13 The Council will seek to maintain and enhance the quality of the green network so that residents and visitors have easy access to good quality green space, sport and recreation provision that meets the needs of local people.
- 2014\_CS14 The Council will seek to ensure that new development is easily accessible to all future users including by alternative means of travel to the car; and will aim to develop and maintain a Transport Network that will maximise accessibility, manage congestion and air quality, and accommodate the impacts of new development.
- 2014\_CS15 To meet the key aim of reducing Leicester's contribution to climate change, the policy sets out measures to help manage congestion on the City roads.
- 2014\_CS17 The policy sets out measures to require new development to maintain, enhance and strengthen connections for wildlife, both within and beyond the identified biodiversity network.
- 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.
- 2014\_CS19 New development must be supported by the required infrastructure at the appropriate stage. Developer contributions will be sought where needs arise as a result of the development either individually or collectively.