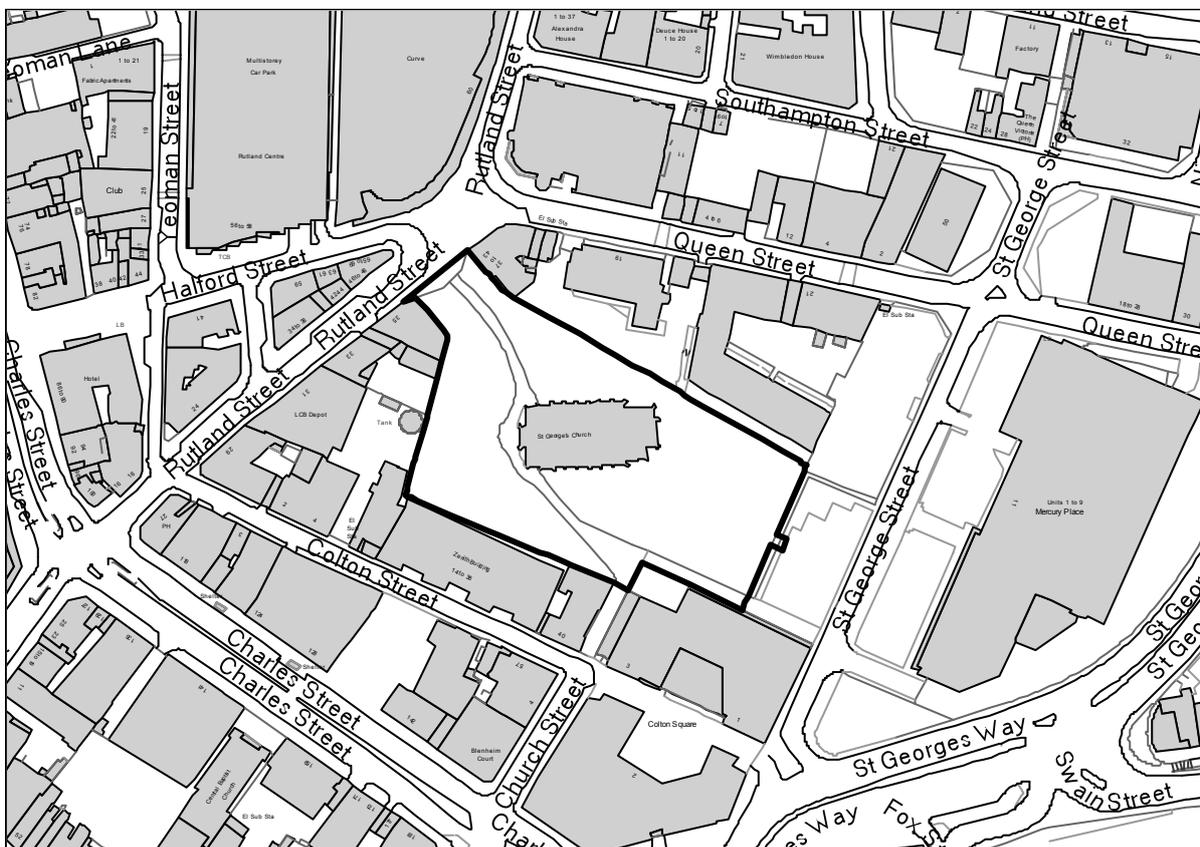


<b>Recommendation: Conditional approval</b>	
<b>20171911</b>	<b>ST GEORGES CHURCH, RUTLAND STREET</b>
Proposal:	LANDSCAPING; REMOVAL OF 21 TREES INCLUDING 2 PROTECTED BY TREE PRESERVATION ORDER; DEMOLITION OF WALL; PARTIAL REMOVAL AND RELOCATION OF RAILINGS; INSTALLATION OF GATE (AMENDED 07.12.17)
Applicant:	LEICESTER CITY COUNCIL
View application and responses	<a href="http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20171911">http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20171911</a>
Expiry Date:	6 April 2018
TEI	WARD: Castle



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**Summary**

- The decision on the application was deferred at your committee meeting of 10<sup>th</sup> January to receive further information at a later committee on air pollution and its relationship to the trees and to receive further information on the gravestones. The decision was also deferred to allow for a site visit.

- The application was before committee on 10<sup>th</sup> January as 49 separate objections and a letter of objection with 20 signatories had been received.
- An additional objection, two additional representations in support of proposal, additional representations from Friends of the Earth and the Leicestershire and Rutland Wildlife Trust and a statement from the applicant explaining linking the proposal to the St George's Cultural Quarter Action Plan were reported as late items at the committee on 10<sup>th</sup> January.
- Representations then and now largely concern the impact of the loss of the trees on the character and appearance of the conservation area, the setting of the listed building and the impact on air quality and ecology and the conservation impacts of the loss of the boundary wall (the amended scheme is now for the partial loss of this wall).
- The main issues remain the heritage, ecological and air quality impacts of the proposed removal of 21 trees, the broader ecological implications of the proposal, the heritage impacts of the removal of much of the boundary wall to Orton Square, the accessibility of the churchyard, the impacts on residential amenity and weighing the positive impacts against the negative.
- The report to committee has been amended to reflect amendments to the proposal, repeat bat survey and additional information received from the applicant, additional representations that were received between the publication of the original report and the previous committee meeting on 10<sup>th</sup> January (reported in the addendum on that date), further representations and additional comments from Historic England received in response to the amended plans and the new National Planning Policy Framework introduced in July 2018.
- The recommendation is for approval.

### **Introduction**

The application relates to St George's churchyard. The churchyard is a closed churchyard with St George's Church being a Grade II\* listed building and purportedly the first church built in Leicestershire since the Reformation. It is a Commissioners' Church built predominantly in the decorated style between 1823 and 1827 to designs by William Parsons, though the chancel was added in the late nineteenth century to designs by Sir Arthur Blomfield and the nave rebuilt in the early twentieth century to designs by W. D. Carøe. Originally a Church of England Church it now hosts a Serbian Orthodox congregation. It is recorded as Category C on the local Heritage at Risk Register. A category C listing means that the church has been assessed as being in slow decay with no agreed solution.

The site is in the St George's Conservation Area and also contains the Grade II listed war memorial erected in 1921 to the designs again by W. D. Carøe. On site there are six trees protected by individual tree preservation orders and ten trees along the southern side of the site protected as part of a group tree preservation order (TPO).

## **Background**

Conditional approval (20030310) was granted on in 2003 for a 2.3 metres high wall and railings to the Rutland Street entrance of the churchyard (now the Orton Square entrance). Since then the planning history has largely related to applications for the felling of or works to the trees in the churchyard and for minor works to the listed church. The Churchyard is within the curtilage of the listed Church, but Listed Building Consent is not required for the proposals.

## **The Proposal**

The proposal as amended is for the redevelopment of the western part of the churchyard with smaller scale works to the eastern part of the churchyard to provide a safer environment. The churchyard is currently largely inaccessible to the public other than the pedestrian route through from the north west to the south. The works will provide greater access to the western part of the churchyard and improve the pedestrian route through the site.

### Removal of trees:

The works will involve the removal of 21 trees including the tree protected by tree preservation order ref. 436(T1) and the eastern most of the ten trees protected by group tree preservation order ref. 349(G1). The removed trees will primarily be those that sit adjacent to the northern part of the path that runs on a south east to north west axis past the west end of the church though two trees close to the courtyard at the rear of the LCB Depot will be removed as will three trees close to the south west corner and one close to the south east corner of the church and three close to the cobblestoned triangle to the south west of the war memorial.

The applicant team has committed to providing replacement trees on a 2:1 ratio and that all planting will be carried out in accordance with British Standard 8545. Eight of these will be semi mature trees planted in locations shown on the landscape proposals (six to the south and two to the west of the site). Three will be at the Leicester Print Workshop, six on St Matthews Way, six on St Matthew's Way, nine on St Matthew's estate, twelve on Belgrave Circle and four on Orchardson Avenue to the rear of the Peepul Centre. The statement adds that the location of the other twenty one replacement trees has yet to be determined.

### Relocation of headstones, wall and railings:

49 gravestones will also be relocated from current positions predominantly to the west of the site to positions at the north and south of the site leaving the western part clear.

The proposal will also involve the removal of the western part of the boundary wall permitted under application 20030310 from the Orton Square entrance and the removal of the railings along the western side of the northern part of the south east to north-west axis. The railings on the eastern side of this axis will be temporarily removed and renovated and returned to their original position.

Landscaping features:

Stone paving to match Orton Square will be laid at the north west of the site with three benches and a litter bin provided and with steel studs laid to mark the line of the existing churchyard wall to the west of the existing path. The space outside the west end of the church will be broadened with a path laid to lead to the rear courtyard of the LCB Depot.

A new gate will be provided at point where this path meets the depot courtyard and two benches and a litter bin will be provided in the broadened space outside the west end of the church. The existing path and the broadened space outside the west end of the church will be re-laid in resin bonded gravel. A new gate will also be added behind the retained eastern part of the boundary wall leading to a path leading to the side of the Queen's Building.

The western and far eastern parts of the churchyard will be made good as open amenity grassland. Two areas of wildflower planting will be provided, one to the north and one to the south west and the path around the church will be levelled and made safe to better accommodate Easter and other liturgical processions.

Lighting:

The proposal will also include flood lighting. However, and in light of the recommendations made following the repeat bat survey and new guidance note published by the Bat Conservation Trust and Institution of Lighting Professionals (referred to below), the lighting scheme has been amended to remove floodlighting from the church building itself and to reserve details of floodlighting for the footpath by way of condition.

Additional information:

The applicant has submitted additional information including a supporting statement addressing the impact of the loss of trees on air pollution, providing clarity over which of the trees are protected by Tree Preservation Order and addressing issues of churchyard maintenance and gravestone removal. It also links the proposal to the St George's Cultural Quarter Action Plan, provides a statement on anti-social behaviour, some historic images and updates the heritage statement in view of the 2018 revision of the National Planning Policy Framework.

A letter has also been submitted explaining the outcome of a repeat bat survey carried out on 9<sup>th</sup> November 2018. It recommends that either the lighting scheme be reconsidered to use waist-high down lighters illuminating the footway only or that further static bat detector surveys are commissioned over the spring and summer.

In respect of the trees to be removed (including those protected by TPO) the statement refers back to the submitted Tree Strategy Plan for the relative category grading of the trees. The two trees to be removed that are protected by TPO are trees T62 and T40. The statement describes how the removal of the former is to allow for improved accessibility and connectivity and the removal of the latter to reveal a view of the historic Cherub Building (with the other nine trees within this group TPO retained).

In respect of the impact of the removal of trees on air quality, the statement provides details of the Leicester Air Quality Management Area (AQMA) and notes that the churchyard does not fall within this AQMA. It refers to the Trees and Action Design Group document 'First Steps in Urban Air Quality' which describes how large areas of green space are often associated with better air quality because they contain fewer roads and therefore lower emissions from road transport.

The statement describes how the project team are working with landscape planning officers to identify sites for replacement trees where they would have greatest impact in terms of air quality. The statement also describes how the proposal has a broad consistency with the fourteen highways related actions in the City's Action Plan for 'Healthier Air for Leicester' in that rather than adding further traffic it aims to encourage walking by enhancing pedestrian links from the city centre to eastern parts of the city and the train station. It describes how in this way it also complements the objectives of the Connecting Leicester project. With reference to Action 16 of the plan it describes how the Council will seek to plant species such as gleditsia in appropriate locations (the shape of the trees and leaves of gleditsia allow air circulation helping air pollution to disperse).

In respect of the maintenance of the churchyard the statement confirms that the Serbian Orthodox Church of St George is the freeholder of the church and churchyard. A Deed of Dedication was signed between the Church and the Council in 2013 which dedicated the land as public open space agreeing that the maintenance of the churchyard would be the responsibility of the Council for a period of 30 years.

In respect of the relocation of gravestones the statement describes how the Council has been working with The Church Commissioners since the start of the project and that with their assistance the appropriate ecclesiastical processes will be followed, including a 28 day notice period to publically advertise the intention to remove headstones. It refers back to the condition recommended with the previous report to committee requiring an archaeological Written Scheme of Investigation in terms of a watching brief and the submitted plan showing gravestones affected by the proposed works. It adds that the removal and relocation of headstones in similar schemes is relatively common, for example the Leicester Cathedral Gardens scheme where approximately 120 gravestones were removed.

The statement explains how 'Delivering a High-Quality Public Realm Scheme at St George's Churchyard' is detailed as Theme 2-Action 2 of the City Council's 'St George's Cultural Quarter: Action Plan (2016-2020)'.

It also adds the anti-social behaviour is recognised as an issue in the churchyard with anti-social behaviour issues continued to be reported through 2018. In late November the police confirmed to the Council that they are currently investigating and working together with The Crime Reduction Anti-Social Behaviour Unit (CRASBU) to address anti-social and drug related activity. They have confirmed that the location is now once again a priority beat due to the level of reported issues. They noted that the location is secluded, the footpath is hidden behind foliage and tall trees which also obstruct CCTV coverage, the lighting is poor and the design is attractive to offenders.

The statement adds two historic images, one from 1879 and one post 1912 that a shows a churchyard more spacious in character. It adds that a heritage panel is

planned within the courtyard setting out the history of the church building and the Serbian Orthodox community in Leicester. It also updates the Heritage Statement in light of the revised National Planning Policy Framework, but notes that the definition of “significance” remains unchanged between the new and old framework.

### **Policy Considerations**

Chapter 12 of the framework focuses on high quality design of buildings and places as fundamental to what the planning and development process should achieve. Paragraph 127 describes how decisions should ensure that developments be visually attractive as a result of appropriate and effective landscaping, establish or maintain a strong sense of place, optimise the potential of the site to accommodate green and other public space and 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.

Paragraph 91 describes how decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, including opportunities for meetings between people and layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods. It adds that it should achieve developments that are safe and accessible for example through the use of clear and legible pedestrian routes, and high quality public space, and which encourage the active and continual use of public areas.

Paragraph 92 states that to provide the social, recreational and cultural facilities and services the community needs, planning decisions should plan positively for the provision and use of shared spaces with Paragraph 96 adding that access to a network of high quality open spaces is important for the health and well-being of communities.

Paragraph 170 requires that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on and providing net gains for biodiversity, preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of air pollution. It adds that development should, wherever possible, help to improve local environmental conditions such as air quality.

Paragraph 174 describes how in order to protect and enhance biodiversity proposals should identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks and wildlife corridors and the stepping stones that connect them. Paragraph 175 advises that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or compensated for, then planning permission should be refused.

Paragraph 180 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment and that in doing so they should limit the impact of light pollution from artificial light on local amenity and nature conservation.

Paragraph 181 describes how decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas. It adds that opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. It adds that decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.

Paragraph 184 requires that heritage assets are conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Paragraph 185 encourages positive strategies for the conservation and enjoyment of the historic environment including assets at risk advising that such strategies should take into account opportunities to draw on the contribution made by the historic environment to the character of a place.

Paragraph 192 describes how in determining applications, local planning authorities should take account of: the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness with Paragraph 193 adding that great weight should be given to the assets conservation.

Paragraph 194 warns that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification with Paragraph 196 advising that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Paragraph 200 encourages opportunities for new development within conservation areas to enhance or better reveal their significance and adds that 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 relevant to this application are listed at the end of this report.

St George's Conservation Area Character Statement

St George's Conservation Area Character Appraisal Addendum

Climate Change (Supplementary Planning Document)

Biodiversity (Supplementary Planning Guidance)

Leicester Air Quality Management Plan

Bats and Artificial Lighting in the UK (Guidance note 08/18) (Bat Conservation Trust and Institution of Lighting Professionals)

## Consultations

*Historic England:* - supportive of the objective to make the church more visible from Orton Square to increase its prominence and its appreciation. However, Historic England have a number of concerns. In particular the loss of boundary wall and proposed pavement would blur the historic churchyard boundary and result in the loss of historic fabric and a positive feature of the church's setting.

Historic England have seen the amended plans and retain the same concerns regarding the wall. Though acknowledging that some of the gravestones have been moved previously Historic England also have concerns regarding the proposed relocation as they provide a reflection of the history of the churchyard and that the recording exercise would replace an experiential space with a sterile record.

*Conservation Advisory Panel (CAP):* - the majority of the panel supported the proposal considering that the works would enhance the setting of the Grade II\* listed church. They considered that the removal of some trees from within the courtyard would open up views of the church, improving its visual appreciation and making it more of a visual reference point from Orton Square. The re-use of existing railings was welcomed. It was recommended that the headstones be repositioned ad hoc rather than in formal rows.

*Local Lead Flooding Authority (LLFA):* - the site is in Flood Zone 1 and therefore at low risk of fluvial and pluvial flooding. The increased amount of hard landscaping together with the removal of the trees will reduce the level of water attenuation on site and this should be mitigated. No objections subject to a condition requiring details of a sustainable urban drainage system be agreed.

*Trees and Woodlands:* - question the removal of trees T35 and T59 as these two trees are of high amenity value.

*Air Quality Team:*- Given the nature of air quality the issue needs to be considered across wider areas. The Council's Air Quality Action Plan has sixteen actions designed to work together to improve air quality across the whole city. The use of trees and other plants to help improve air quality is one of these actions. The representation notes that the scheme includes a mitigation plan for replacement trees with eight on site and 34 others across the city centre the wider city centre. They have provided further comments in respect of the monitoring data presented by Friends of the Earth, noting that it has only been collected for one month. In contrast the City Council's data is provided for whole years. The diffusion tubes used would need to be set in triplicate to provide more reliable data. The Friends of the Earth data therefore does not represent robust air quality measurement and cannot be compared directly to the EU target level.

## Representations

The report to Committee in January stated that 55 separate representations had been received, 5 in favour of the proposals, 49 making representation against the proposals and one expressing a hope that the security of the LCB Depot will be taken into consideration. A joint letter of objection with 20 signatories had also been received.

The addendum reported further information received from Friends of the Earth, a statement linking the proposal to the St George's Cultural Quarter Action Plan and a representation in support of the proposal from Cllr Myers. A later representation from the Wildlife Trust and one from Gavin Gamble (ecologist and environmental campaigner) was reported verbally. Since the January committee fourteen additional representations have been received, thirteen in opposition to the proposals and one in favour.

The representations in favour of the proposals note that the improvements are needed given the antisocial behaviour in the area and that it will provide much needed accessible green shared space in the heart of the Cultural Quarter with a better link to the LCB Depot and better links to the railway station with the potential for increasing inward investment in the area. One representation adds that currently there is no such accessible shared green space in the Cultural Quarter. They observe that the increase in footfall will help to make the area safer and more secure. Concerns were raised in particular over the safety of staff and visitors at the Curve and the security of the LCB Depot. They add that the removal of the trees will better reveal a heritage asset and help to reduce the cost of the upkeep of the church.

Councillor Myers' representations were reported in the addendum at the committee meeting. He argued that the City Council should encourage spaces that are widely used where commercial, cultural and residential space can be enjoyed alongside open, public spaces. He added that the Cultural Quarter is well on the way to doing this but the churchyard remains a barrier to this objective with the fenced off churchyard and poor amount of light caused by the tree canopy as contributory factors to workers and residents avoiding this space. He concluded that there is great potential to develop the churchyard into one of the city's great green public open spaces.

Objections include those from Councillor Nigel Porter, Councillor Patrick Kitterick, the Leicester Civic Society, the Evington Footpath Conservation Area Society, Friends of the Earth Leicester, The Leicestershire and Rutland Wildlife Trust and a joint letter signed by twenty residents from a neighbouring block of flats.

Councillor Kitterick raised concerns regarding the amount of space within the churchyard still left inaccessible to the public.

Councillor Porter raised concerns that the proposal would significantly harm the church and its setting and have a detrimental impact on biodiversity and air quality. He also pointed to figures provided by the Leicestershire Police map for the period January to August 2017 where though 10829 reports of crime and anti-social behaviour were recorded within a mile radius of the city centre none of these were in the churchyard. The Civic Society consider the trees and the sense of enclosure provided by the church yard as central features of the Conservation Area and that the proposal represents an excessive loss of trees contrary to the Council's biodiversity action plan. They also feel that the otherwise welcomed introduction of benches and flower beds would exacerbate anti-social behaviour and that a time closed solution such as that which exists for Castle Gardens would be a better solution to this issue.

The Evington Footpath Society reject the argument that anti-social behaviour necessitates the removal of trees and ask that other drivers behind the project are made explicit.

The Wildlife Trust had objected pending further survey work to assess the site's importance for pipistrelle bats. They agree with the recommendations made that bat activity surveys are done between May and September before final plans are made concerning the lighting scheme and ask that the effects on bats of the tree removal be fully considered. They recommend a condition that such surveys be carried out in this period and that their results should inform any decisions made regarding the site.

Friends of the Earth raised concerns about air pollution resulting from the removal of the trees. On the basis of measurements made in 2016 they found that air quality was below legal limits in the churchyard but noted fears that the proposal may result in air quality being pushed over these limits. They also made a case that an Environmental Impact Assessment may have been necessary for the application.

They pointed to a lack of evidence for claims that the trees are damaging the church arguing that blocked gutters are not grounds enough to remove trees. They also disputed that anti-social behaviour necessitates the removal of trees and pointed to evidence that suggested contrary and suggested that better lighting could satisfy this objective. They also questioned whether consent had been gained from the Church's Commissioners for the relocation of the gravestones and queried the choice of architects. In this later representation they raised concerns that their findings on air quality had been dismissed as not being evidenced.

They also added concerns that the replacement trees would not be the same species, nor will they be mature or reach the same height at maturity and worried that replacement trees would be planted at unspecified times and in unspecified places. They also reiterated concern over the impact of the proposal on the wildlife habitat and drew attention to other objections made by the Leicestershire and Rutland Wildlife Trust and the Civic Society.

The joint letter from the neighbouring block of flats raise concerns that the proposal would result in a loss of privacy and overlooking in a loss of the softer tree-filled aspect they currently enjoy. Concerns are also raised about disturbance by way of noise due to both a higher anticipated footfall and the reduction in the muffling effect of the trees. They consider that functional lockable gates would be a better solution to anti-social behaviour. The letter states that the proposal will harm the setting of the Grade II\* listed building and the character, in particular the historic character, of the conservation area. It adds that the proposal appears contrary to the Council's Biodiversity Action Plan and Biodiversity SPG.

Other objections raise similar concerns as those above including in relation to the wildlife value of the churchyard with one objection noting that it is the only place in the area where the seasonal transitions of the natural world can be appreciated.

There were similar concerns as above over the impact of the proposal on the Conservation Area with discomfort expressed over the removal of any more trees than would be acceptable to Historic England.

The contribution of the trees to producing oxygen and improving air quality was again emphasised as well as a link between the retention of trees and alleviation of flood risk. One objection claimed that the greater impact of mature trees on air quality would not be compensated for by a higher number of replacement younger trees with a further objection adding that saplings are a target for vandalism.

The objections again dispute that anti-social behaviour necessitates the removal of trees and that a better solution to anti-social behaviour would be to lock the gates at night. It is suggested that the anti-social behaviour justification is overblown with one objector providing police figures that there had been only five reported crimes in or around the churchyard over the past three years.

Other solutions towards reducing the number of trees to be felled are suggested with more time to think these options through. Suggestions include consulting those using the churchyard as to why they are using it and where they could go, a greater police presence with a police 'walkthrough', CCTV cameras, pathways widened and better lit with creatively designed mirrors for dead sight corners.

Objectors also felt that the removal of the trees was not the appropriate solution to the state of the church and that this could be better achieved by volunteers or a Council post created for the role.

One objector also suggested that particularly in the context of a church there should be consideration of how the vulnerable and excluded can be helped rather than moved on. Another added that were the homeless using the trees for shelter this would be a poor justification for their removal.

Other objectors felt that the proposal would increase noise and disturbance, anti-social behaviour and littering in the churchyard.

Family attachment to and value of the wildlife provided by the churchyard was emphasised including the benefits of exposing children to as much of the natural world as possible, including improving physical and psychological health, cognitive development and creativity.

One representation made reference to the 'New Year of the Trees' (as celebrated in the Jewish calendar towards the end of January) suggesting that a religious argument be added to the debate. Two representations made reference to the St George's Tree Festival held on 20<sup>th</sup> January 2018.

One objection questioned why the Council had not used i-Tree software (developed by the US Department of Agriculture to calculate what it would cost in financial terms to improve air quality and alleviate flood risk when trees are removed). It added that the current proposal should not be understood outside of the wider context of the loss of trees at Victoria Park and De Montfort Hall and future proposals at Fosse and Freeman's Common.

One objection was received from a local business asking for the specific removal of tree ref. no. T55 from the western side of the site to allow for greater light to the building.

Another objection was received feeling that not enough trees were being removed and this is against the objective of openness for the churchyard.

### **Consideration**

#### Trees (General):

Published government guidance details what a local planning authority may take into account when assessing the amenity value of trees, including the respective tree or tree group's visibility from a public place and its individual, collective and wider impact with reference to characteristics such as size and form, future potential, rarity, cultural or historic value, contribution to and relationship with the landscape and to the character and appearance of a conservation area.

The guidance also notes that other factors can be taken into account in assessing the amenity value of trees such as importance to nature conservation or response to climate change. However, the guidance cautions that these factors alone would not warrant making a preservation order. It is in this context of "amenity value" that the proposed removal of trees would need to be considered.

#### Trees (Character and appearance of St George's conservation area):

The churchyard is referred to in some detail in the Character Appraisal which notes that it is the main area of open space within the conservation area. It describes how it is largely hidden away behind the adjacent industrial buildings with the limited frontage to its Rutland Street entrance intensifying this sense of enclosure. However, it is described as a relatively well used pedestrian route between Rutland Street, Colton Street and St George Street.

It also notes how despite the conservation area having very few trees there are over fifty mature lime trees in the church yard as well as other species too. It adds that there are many fine specimen trees covered by tree preservation orders. It describes how the mature trees on site give a feeling of maturity and scale that greatly enhances the setting of the church though it adds the birches and cherry trees are less valuable in this respect. It adds that it may be possible to achieve tree planting as part of landscaping schemes attached to development proposals, though it concedes there is little space available.

The appraisal reports that the presence of many trees in the churchyard has led to complaints from the areas new residents in terms of the effect on light levels and from the church in terms of the potential effect on the fabric of the building. It adds that the trees are important to the character of the churchyard and help to soften the otherwise hard urban environment of the conservation area concluding that their wholesale removal would not therefore be appropriate but that it would be useful to investigate how these issues could be addressed.

The proposed removal of the trees (with the exception of the two close to the courtyard of the LCB Depot, and the four to the south of the church) will primarily be those along the south east to north west axis past the west end of the church.

The churchyard will retain tree coverage with the remaining 41 trees and eight semi-mature trees to be planted. This coverage will be particularly along its peripheries and the eastern end of the churchyard and as such those areas would remain well treed and green and a soft area within the urban landscape.

The removal of the trees along this axis will also better reveal the tower of the Grade II\* listed church from Orton Square. Though the character of the churchyard will be altered by the removal of this line of trees I consider that the proposal will mean that the essential well-treed and green character of the churchyard will be retained whilst the landmark tower will be better revealed and brought into views from within the conservation area. In this respect I consider that the character and appearance of the conservation area will be enhanced.

#### Trees (impact on St George's Church and the war memorial):

The church is graded Category C on the Leicester Heritage at Risk Register meaning that it has been assessed as being in slow decay with no agreed solution. The reason for this level of risk is identified as blocked and missing guttering and a lack of management of the churchyard trees, resulting in localised areas of water ingress. The register describes how this is an ongoing maintenance problem with guttering regularly blocked due to guttering being blocked. Whilst I acknowledge that there are possible other solutions that could be found to this issue the removal of the trees closest to the church would also alleviate this problem.

The relevant listing for the church describes the external elevations in detail including its three stage western tower with four spire like pinnacles, its corner buttresses and parapets, tall pointed arch windows and its west door with intricate gothic tracery. The proposed removal of the trees along both sides of the northern part of the path through the site will bring these details into view from Orton Square, in particular the west tower and west door. I consider that the removal of these trees will provide a view that brings the west end of the church into wider view with the retained trees to the north contrasting with the elaborate stone work and complimenting this view and the retained trees to the south provided something of a glimpsed backdrop.

I consider that the removal of the trees will enhance the setting of the Grade II\* listed building described in the character appraisal as the architectural centrepiece of the area. Though there are four trees to be removed within a 30 metres radius of the Grade II listed War Memorial the fuller foliage within close proximity to the memorial will be retained and the setting of the memorial will not be significantly altered.

#### Trees (Climate Change and Air Quality):

Core Strategy policy CS02 states that all development must mitigate and adapt to climate change and reduce greenhouse gas emissions. The policy also makes reference to the Climate Change Supplementary Planning Document. This document notes that mature trees and green spaces have greater benefit than newly planted trees and that these should be preserved where possible. Saved policy PS11 adds that proposals which occur within or which would significantly affect Air Quality Management Areas will be scrutinised closely.

The site is not in an Air Quality Management Area. However, the Council's Air Quality Action Plan "Healthier Air for Leicester" has sixteen actions designed to work together to improve air quality across the whole city with the use of trees and other plants to help improve air quality is one of these actions. Though the proposal results in the loss of twenty one existing trees it also has a mitigation plan for replacement trees including eight on site and thirty four others across the wider city centre.

A mitigation plan that includes the replacement of trees on a two for one basis could present an opportunity for the replacement trees to be strategically sited within the city centre to support the 16<sup>th</sup> objective 'using trees and plants to reduce air pollution' of the Air Quality Management Plan. I therefore consider it appropriate to attach a condition requiring details of the siting and species of replacement trees to be agreed prior to their replanting so that the potential benefits of the mitigation plan can be realised.

Defra procedures for measuring air quality require data to be collected for longer than a month with diffusion tubes used in triplicate. Officers do not accept that the data collected by Friends of the Earth is robust.

The Leicester Air Quality Management Plan describes how the majority of Nitrogen Dioxide (NO<sub>2</sub>) comes from road traffic emissions along major routes in the city. The site is set 65 metres away from the nearest part of St Georges Way and it is well screened by buildings to the north, south and west. The proposal retains the majority of the existing trees as well as proposing new trees elsewhere and it will not result in any additional vehicular traffic.

Overall I consider that the proposals in themselves could not be demonstrated to have a reliably measurable impact on air quality. Given that the scheme includes for some mitigation I conclude that impact on air quality could not be a reason for refusal.

#### Trees (anti-social behaviour):

Many of the points raised by both objectors and supporters relate to the relationship between the trees and anti-social behaviour. I note the comments made in the supporting statement regarding reported anti-social behaviour and drug related activity in the churchyard and how the location is once again a police priority beat.

I consider that the proposals in themselves would have a positive impact on helping to reduce anti-social behaviour.

#### Landscaping and biodiversity:

Core Strategy Policy CS03 describes how good quality design is central to the creation of attractive, successful and sustainable places and how the council expects high quality well-designed developments that respond positively to its surroundings, appropriate to the local historic and natural setting. It gives a number of design objectives including appropriate materials and legibility by using landmarks and views within, into and out of new development.

Saved policy UD06 adds that planting proposals should form part of an integrated design approach which includes overall layout, access routes, fencing, and hard landscaping and that the maintenance of existing and new landscaping will be required for the first ten years.

Core Strategy policy CS17 describes how the Council expects development to maintain, enhance or strengthen connections for wildlife both within and beyond the identified biodiversity network and that connected sites will be assessed for their biodiversity value.

#### New planting:

The proposed wildflower planting areas at the north and the south west of the site are both set away from areas that would be habitually accessible to the public or used recreationally. This will ensure that the more delicate nature of the wildflowers and the wildlife they support would have the potential to sustain itself undisturbed and that there would be no conflict between the different types of management that wildflower meadow and more recreational amenity grassland require. The submission has been amended so that the mix of species has been left undecided allowing ecologists to develop a mix that would be appropriate. I recommend that a condition be attached to ensure that details of the species to be used be first agreed prior to planting. With this condition attached I consider that the wildflower planting can provide ecological enhancement.

#### Habitats:

The removal of the trees will result in the loss of potential bird nesting habitats and foraging corridors for a range of insects. However, this can be offset with the planting of pollinator friendly shrubs on site. A suitable position for this would be along the boundary wall to the north as this will ensure that the shrub planting will be along existing foraging corridors. Ecological enhancement can also be achieved through the use of invertebrate boxes and bird and bat boxes. This will provide further habitat for solitary bees and insects that will be encouraged by the wildflower meadow and shrub planting as well as for birds and bats. I consider that these enhancements can be secured by condition.

Nevertheless, as the existing trees provide habitat for nesting birds I consider it prudent to attach a note to applicant advising that any clearance should take place out of the bird nesting season unless under the supervision of a qualified ecologist.

In accordance with the objectives of saved policy UD06 in ensuring that the benefits of the landscaping and ecological enhancements of the scheme are safeguarded going forward I consider it appropriate to attach a condition requiring a Landscape and Ecology Maintenance Plan to be submitted and agreed.

With these conditions and note attached I consider that the ecological impacts of the loss of trees will be offset and that the proposal will enhance connections for wildlife beyond the identified biodiversity network and in accordance with Core Strategy policy CS17.

Bats and lighting:

The Arcadis Bat and Bird Survey Report (September 2017) concluded that there is no evidence of roosting bats. During the tree survey only two features potentially suitable for roosting bats were identified. These two features relate to trees to be retained. No features were identified during the church survey. The proposal has been amended in light of the recommendations following the repeat bat survey and the five steps for the mitigation of artificial lighting impacts on bats detailed in the new guidance 'Bats and Artificial Lighting in the UK' (Sept 2018). It now removes lighting to the church building itself and reserves details of the footpath lighting to be secured by condition. These amendments support the precautionary approach and will safeguard bat roost features against light spillage keeping them suitable for supporting roosting bats in the future.

Church, setting and heritage:

The character appraisal describes the church as a prominent landmark and a key feature of views into and within the conservation area. It also notes the table tomb, obelisk and footed sarcophagus and the large collection of slate, limestone and sandstone headstones of both historic and visual value. However, the asphalt footway surfaces are described as visually poor making no positive contribution to the quality of the area.

The primary aesthetic effect of the scheme is to better reveal the prominent landmark of St George's Church bringing it prominently into views within the conservation area. I consider that this is achieved whilst still maintaining the well-treed and green character of the churchyard. It therefore responds positively to its local heritage and natural setting.

I consider that the stated objective of the use of a softer resin bound surfacing will result in a more visually pleasing route through the churchyard than that presented by the existing surface recognised as visually poor. The use of stone to match the stone of Orton Square for a depth of approximately 12 metres into the churchyard from the Rutland Street entrance will help to unify the two spaces by helping to lead the eye beyond the Rutland Street frontage and towards the church and churchyard. However, in order to ensure that the materials to be used for this link to and for the path through the churchyard are of the appropriate quality consider it necessary to attach a condition requiring details of the materials to be first submitted and agreed.

The table tomb, obelisk and footed sarcophagus will be retained in situ and there is evidence of previous relocations of the headstones. As such I consider that the relocation of the headstones will not have a significant impact on the historic significance of the churchyard and two of the larger memorials will be brought into the public realm where they can be more readily appreciated by users of the space.

Access, removal of boundary wall, railings and boundary treatment:

In respect of connectivity and access Core Strategy policy CS03 also supports layouts that prioritise safe, well-connected pedestrian routes. The character appraisal notes that the characteristic pattern of development in the conservation area means that there are few examples of boundary walls or railings and the walls flanking the entrance

to the churchyard off Rutland Street are one of two exceptions to this pattern. The boundary wall along with the railings discussed below, are elements of the existing structure of the locale.

The provision of widened level paved pedestrian routes, installation of benches and removal of railings to give more open unobstructed access will all contribute positively to inclusive design objectives.

As the existing wall was constructed in 2003, it falls outside of listed building consent controls and is not an integral feature to the historic fabric of the listed building. Nevertheless, its removal will result in the loss of a historic boundary that provided structure to the street form and legibility to the distinction between consecrated and temporal space. This distinction contributes to the current setting of the church and to the character and appearance of the conservation area.

Balancing this is the visual unifying of the two spaces of Orton Square and the churchyard in particular with reference to the materials used for this extension of Orton Square into the north west corner of the site. I also consider that this approach and its inherent partial removal of the existing boundary wall will also help to meet the connectivity and access objectives of Core Strategy policy CS03 in that it will encourage greater footfall to this area enhancing the connectivity of the north west to south east pedestrian route through the site. This will be further enhanced by the provision of three benches at the north western corner and two benches outside the broadened hard surfaced space at the west end of the church that will encourage these two points of the site to be used recreationally.

As such, I consider that this enhanced pedestrian connectivity, the anticipated increase in footfall to the churchyard and the subsequent wider enjoyment of the heritage assets of the church and the churchyard to outweigh the loss of heritage and impact on setting of the listed buildings caused by the wall's partial removal.

Nevertheless, given the historic significance of the site I consider that some reference to the former delineation of space be retained. The plans have been amended to include steel studs marking the existing boundary.

The landscaping proposals describe how the existing railings that run either side of the path will be lifted, repaired, repainted and relocated to the south to be used along the southern side of the new path towards the rear of the LCB Depot. This approach to ensuring that railings and gates of some historic and architectural value are restored and reused is welcomed.

I consider it necessary to attach a condition that the renovation and relocation works to the railings are carried out under a watching brief from conservation officers to ensure that those elements of historic or architectural interest are retained. Similarly I consider it appropriate in the interests of the character and appearance of the conservation area and the setting of the listed church and listed war memorial to secure by condition the details of the four new proposed gates including that to the rear of the LCB Depot courtyard.

Archaeology:

Ground works and excavation of tree-pits have the potential to reveal human remains and the appropriate archaeological investigation of where these works are to take place will be required. This investigations need to adhere to the 2017 guidance on 'Best Practice for Treatment of Human Remains Excavated from Christian Burial Grounds in England'. As such I consider it appropriate to attach a condition requiring a watching brief and a programme of archaeological work to be first submitted and agreed. The watching brief would cover all work that could disrupt the ground including the stump grinding to the removed trees and the planting of shrubs.

Drainage:

The site is in Flood Zone 1 and therefore at low risk of fluvial and pluvial flooding. However, it is in a critical drainage area. Core Strategy policy CS02 states that all development should aim to limit surface water run-off by attenuation within the site giving priority to sustainable urban drainage techniques. The increased amount of hard landscaping together with the removal of the trees will reduce the level of water attenuation on site. However, I consider that this can be mitigated by securing a sustainable urban drainage system and channels and gullies to the hardstanding to discharge water into sewers and recommend a condition to this effect.

Noise, residential amenity and anti-social behaviour:

Though much of the churchyard will remain inaccessible to the public the proposals will result in a substantial part of the western side of the churchyard becoming accessible. The provision of benches will encourage users to spend more time in the churchyard and I do not consider that their provision in themselves will encourage anti-social behaviour.

The anticipated greater use of the western side of the churchyard and the pedestrian route through the churchyard may result in higher levels of noise. However, this level of noise would be similar to that of other urban public spaces and I do not consider this to be unacceptable in this location.

Conclusion

I consider that overall the proposal will enhance the character and appearance of the conservation and the setting of the Grade II\* listed church by bringing the west end of this landmark better into views from Orton Square and by providing greater access and public enjoyment of this space.

I consider that any negative impact on heritage assets would be outweighed by the improved access to and through the site which will extend the appreciation and enjoyment of the church and churchyard.

The existing position of the wall and former delineation between Orton Square and the churchyard will be referenced by the surface treatment.

A mitigation plan including replacement trees on a two for one basis could provide an opportunity for strategic replanting of trees to support the objectives of the Air Quality

Management Plan. Overall I do not consider that there would be an unacceptable impact on air quality

I consider that the ecological impacts of the proposal can be mitigated.

I also consider that with the retention of the trees around the peripheries of the site that the residential amenity of neighbouring properties will be preserved to an acceptable level.

I recommend APPROVAL 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. Before work commences on the hard-surfacing of the areas at the north-west corner of the site facing Orton Square and the area in front of the west end of the church, and before work commences on the resurfacing of the footpath through the site details of the materials to be used for the hard surfacing and full details of the benches and bins to be installed should be submitted to and agreed in writing by the City Council as local planning authority. (To ensure that the development hereby approved preserves the character and appearance of the St George's Conservation Area and the setting of the Grade II\* listed church, in accordance with Policies CS03 and CS18 of the Leicester Core Strategy.)
3. No development shall commence until details of a watching brief in respect of the removal and relocation of the railings has been submitted to and approved in writing by the City Council as local planning authority. (To ensure that the development hereby approved preserves the character and appearance of the St George's Conservation Area and the setting of the Grade II\* listed church, in accordance with Policies CS03 and CS18 of the Leicester Core Strategy.)
4. No new gates shall be installed until drawings at a scale of 1:10 or 1:20 of the proposed gates and details of the materials to be used have been submitted to and agreed in writing by the City Council as local planning authority. The works shall be carried out in accordance with these agreed details. (To ensure that the development hereby approved preserves the character and appearance of the St George's Conservation Area and the setting of the Grade II\* listed church, in accordance with Policies CS03 and CS18 of the Leicester Core Strategy.)
5. (A) No development shall commence until a programme of archaeological work including a Written Scheme of Investigation in respect of a watching brief (including a requirement for further excavation if necessary) has been submitted to and approved in writing by the City Council as local planning authority. The scheme shall include an assessment of significance and 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;

(5) provision to be made for archive deposition of the analysis and records of the site investigation;

(6) nomination of a competent person or persons or organization to undertake the works set out within the Written Scheme of Investigation.

(B) No demolition or development shall take place other than in accordance with the Written Scheme of Investigation approved under (A) above.

(C) 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 (A) 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).

6. No development shall commence until details of the location and species of forty two replacement trees shall be submitted to the City Council as Local Planning Authority for their agreement. The agreed species shall be planted in the agreed locations by the end of the first planting season of 2019. (In the interests of amenity and biodiversity, and in accordance with policy UD06 of the City of Leicester Local Plan and Core Strategy policies CS3 and CS17).

7. No development shall commence until a detailed landscape and ecological management plan (LEMP) showing the treatment of all parts of the site which will remain unsurfaced shall be submitted to and agreed in writing with the City Council as local planning authority. This scheme shall include details of: (i) the position and spread of all existing trees, shrubs and hedges to be retained or removed; (ii) new tree and shrub planting, including plant type, size, quantities and locations; (iii) means of planting, staking, and tying of trees, including tree guards; (iv) other surface treatments; (v) fencing and boundary treatments, including details of the entrance gates; (vi) any changes in levels; (vii) the position and depth of service and/or drainage runs (which may affect tree roots), (viii) a detailed plan of the biodiversity enhancements on the site such as the species mix and areas for wildflower planting and including a management scheme to protect habitat during site preparation and post-construction; (ix) details of 6 x Improved Crevice Bat Boxes and 12 x 1B Schwegler Nest Boxes and 3 x insect boxes to be erected within the site under the guidance and supervision of a qualified ecologist.

The approved LEMP shall be carried out within one year of completion of the development. For a period of not less than ten years from the date of planting, 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 (In the interests of amenity, and in accordance with City of Leicester Local Plan policy UD06 and Core Strategy policies CS03 and CS17).

8. Prior to commencement of the development details of lighting including illumination strategy shall be submitted and agreed in writing with the City Council as local planning authority and implemented in accordance with the agreed details. (In the interests of protecting wildlife habitats and in accordance with City of Leicester Local Plan policy BE22 and Core Strategy policy CS17).
9. No development shall commence until details of a Sustainable Drainage System (SuDS) shall be submitted to and agreed by the City Council as local planning authority. The details shall include channels and gullies within the proposed hardsurfacing. The system shall be provided in accordance with the agreed details and shall be retained and maintained thereafter. (To reduce surface water runoff and to secure other related benefits in accordance with Core Strategy policy CS02).
10. This consent shall relate solely to the amended plans received by the City Council as local planning authority on 07.12.17, unless otherwise submitted to and approved by the City Council as local planning authority. (For the avoidance of doubt.)

#### NOTES FOR APPLICANT

1. Works to trees and shrubs on the site should avoid the bird nesting season (March to September), but if this is not possible, a re-check for nests should be made by an ecologist (or an appointed competent person) not more than 24 hours prior to the commencement of works and evidence provided to the City Council as local planning authority. If any nests or birds in the process of building a nest are found, these areas will be retained (left undisturbed) until the nest is no longer in use and all the young have fledged. An appropriate standoff zone will also be marked out to avoid disturbance to the nest whilst it is in use.

All wild birds are protected under the Wildlife and Countryside Act (1981) as amended making it an offence to kill, injure or disturb a wild bird and during the nesting season to damage or destroy an active nest or eggs during that time.

#### **Policies relating to this recommendation**

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|-----------|---|
| 2006_BE20 | Developments that are likely to create flood risk onsite or elsewhere will only be permitted if adequate mitigation measures can be implemented.  |
| 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.        |
| 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\_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.