

Item No. 3

Application Reference Number P/16/1053/2

| | | | |
|--------------------------|--|--------------------|---------------------|
| Application Type: | Full | Date Valid: | 22/06/2016 |
| Applicant: | Mr Andrew Philpott | | |
| Proposal: | Erection of 7 x 1 bedroom apartments with associated external works. | | |
| Location: | 5 Cumberland Road Loughborough Leicestershire LE11 5DE | | |
| Parish: | Loughborough | Ward: | Loughborough Storer |
| Case Officer: | Andrew Thompson | Tel No: | 01509 634988 |

Following a Ward Referral Report, Councillor Forrest wishes this application to be considered by the Plans Committee because in her opinion the proposals represent overdevelopment of the site, causes parking issues, and the design of the development would be out of keeping with the character of the area.

Description of the Application

The application site is on the corner of Cumberland Road and Fearon Street in Loughborough and currently forms the side garden area of no.5 Cumberland Road, a large semi-detached Victorian 'villa' style property. The site is currently surrounded by an approximately 1.8 metre high wall along both the Cumberland Road and Fearon Street frontages. The adjacent properties on Fearon Street are terraced properties, smaller in scale than those on Cumberland Road, and are set back slightly from the footpath, with low front boundary walls. The site includes a garage belonging to no.5 Cumberland Road, which is adjacent to no.18 Fearon Street.

The application site is located within the Ashby Road Conservation Area with the Grade II Listed Rosebury School and St Peters Church on Storer Road being the nearest listed buildings. St Peters Church is 60m to the northeast and Rosebury School is 90m to the northwest.

The original plans submitted in May/June 2016 were for 9 x 1 bedroom apartments, with a three storey building across the site. The design has been amended from a design that sought to replicate the neighbouring properties to a more contemporary design and further amendments have also been made to improve detailing of the proposals.

The proposal now under consideration is for the erection of a block of 7 x 1 bedroom apartments. The proposed new building is three stories on the Cumberland Road frontage and two stories on the Fearon Street frontage and contains three flats at ground floor, three at first floor and one at second floor.

The proposal includes boundary railings and brick pillars along the Cumberland Road and Fearon Street frontages. The vehicular access on Fearon Street is retained whilst the garage is demolished and the space is enlarged to provide 4 parking spaces between the

new development and no.18 Fearon Street (two sets of two tandem spaces). One of the car parking spaces is indicated as being for the existing house at no.5 Cumberland Road and pedestrian access is also provided at this point to the rear garden of that house.

Development Plan Policies and other material considerations

Policy CS1 – Development Strategy – states that the Council will make provision for 13,940 new homes between 2011 and 2028. This includes sustainable development in Loughborough and Shepshed which contributes towards meeting the Council's remaining development needs (not met through specific allocated sites), supports the Council's strategic vision, makes effective use of land and is in accordance with the policies of the Core Strategy.

Policy CS2 – High Quality Design – requires developments to make a positive contribution to Charnwood, reinforcing a sense of place. Development should respect and enhance the character of the area, having regard to scale, massing, height, landscape, layout, materials and access, and protect the amenity of people who live or work nearby.

Policy CS3 – Strategic Housing Needs – states, inter alia, that the Council will seek an appropriate mix of types, tenures and sizes of homes, having regard to identified housing needs and the character of the area.

Policy CS4 – Houses in Multiple Occupation – states that the Council will support the well-being, character and amenity of communities by managing the proportion of houses in multiple occupation (HMOs)

Policy CS12 – Green Infrastructure - protects and enhances green infrastructure assets including addressing the identified needs in open space provision.

Policy CS14 – Heritage – requires proposals to protect heritage assets and their setting and supports development which prioritises the refurbishment and re-use of disused or under used buildings of historic or architectural merit.

Policy CS16 – Sustainable Construction and Energy - supports sustainable design and construction techniques. It also encourages the effective use of land by reusing land that has been previously developed.

Policy CS17 – Sustainable Transport - seeks a 6% shift from travel by private car to sustainable modes by requiring major developments to provide access to key facilities by safe and well-lit routes for walking and cycling that are integrated with the wider green infrastructure network and by securing new and enhanced bus services where new development is more than 400m walk from an existing bus stop.

Policy CS18 – The Local and Strategic Highway Network – seeks to ensure that appropriate highway improvements are delivered and applications are supported by appropriate Transport Assessments.

Policy CS 25 – Presumption in Favour of Sustainable Development – sets out a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Borough of Charnwood Local Plan (adopted 12th January 2004) (saved policies)

The policies relevant to this proposal include:

Policy EV/1 – Design – seeks to ensure a high standard of design that respects the character of the area and is compatible in mass, scale and layout.

Policy TR/18 - Parking Provision in New Development notes that planning permission will not be granted for development, unless off-street parking for vehicles, including cycles, and servicing arrangements are included, to secure highway safety and minimise harm to visual and local amenities.

The National Planning Policy Framework 2012 (NPPF)

The NPPF is a material consideration in planning decisions. The NPPF contains a presumption in favour of sustainable development.

The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development and that there are 3 dimensions to this;

- An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places to support growth and innovation
- A social role – supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built development with accessible local services;
- An environmental role – contributing to protecting and enhancing our natural, built and historic environment.

Para 14 sets out a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. Where the development plan policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.

Para 17 sets out the core principles of sustainable development

In terms of the remainder of the NPPF, relevant sections are as follows:

Section 4: Promoting Sustainable Transport

Paras. 29-32 Promotes sustainable modes of transport and consideration of highway implications in that only where a development results in a severe impact should it be refused.

Section 6: Delivering a wide choice of high quality homes

Paras. 47 & 49 – requires LPAs to significantly boost the supply of land and need for a 5 year housing land supply.

Para 50 advises local planning authorities to plan for a mix of housing.

Section 7: Requiring good design

Paras. 56, 58, 63 & 64 – Development is required to achieve high quality design that respects local distinctiveness and poor design should be refused.

Section 8. Promoting healthy communities

Paras 69 and 70: Facilitating social interaction and creating healthy, inclusive communities.

Section 10: Climate change and flooding

Para 96 - Direct development away from areas at high risk of flooding, and it should take account of layout, landform, building orientation, massing and landscaping to minimise energy consumption.

Section 12: Conserving and enhancing the historic environment

Para 128 - Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Paras 133 and 134 - Where a development 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.

On decision taking the NPPF advises:

Paras 186 and 187: Local Planning Authorities should act in a positive and proactive manner in decision making.

Para 196: Re-emphasises the primacy of the Development Plan in decision making.

Paras 203-206: Sets out the tests for the use of planning conditions and obligations.

Planning Practice Guidance

This was launched as a web based resource, and replaces a list of previous practice guidance documents and notes, as planning guidance for England and consolidates this guidance on various topics into one location and condenses previous guidance on various planning related issues. The guidance also sets out relevant guidance on aspects of design, the setting and significance of heritage assets supporting the policy framework as set out in the NPPF

Leading in Design Supplementary Planning Document (February 2006)

This document encourages and provides guidance on achieving high quality design in new development. Appendix 4 sets out spacing standards for new housing developments to ensure that overlooking and over dominance do not occur and that a good quality design is achieved.

House Extensions Supplementary Planning Guidance

Advises that problems with loss of sunlight are likely to occur when some part of a proposal is within 90 degrees of a south facing window on an existing property and where the height of a proposal exceeds a 25 degree angle (taken from a point 2 metres above ground level at the affected property)

Loughborough Ashby Road Conservation Area Appraisal (November 2005)

The Ashby Road Conservation Area was designated in April 2002. It is based on the Ashby Road corridor running west from the town centre. The eastern part of the area designated is largely formed from the Paget and Storer Estates, important family holdings which also instituted charitable trusts and donated large areas of land to the town. It is noted that Thomas Goode Messenger who founded his company in 1858, moved to the Cumberland Road site in 1884.

The terraced estates to the north and south of Ashby Road are serviced by Radmoor Road, Cumberland Road and Storer Road and bounded at the eastern edge by Derby Road, another ancient road, now busy with heavy traffic. Radmoor Road is an ancient lane that led originally to a cluster of cottages, now demolished to make way for Loughborough College. Cumberland Road was constructed on an old track between the fields and Storer Road was built on the line of an existing field boundary. The streets that lead off from these roads into the terraced housing were laid out in a strict rectilinear pattern with little provision of public open space. The field to the west of Cumberland Road remained open. Part of it was used as allotments until recent times when it was grassed over and is now used as a recreation and playing field. The rest of the field has been used for the new Epinal Way Hospital. To the south of Ashby Road, Burleigh Fields was used as a popular though private open space until the land was sold for development ca.1970.

The Conservation Area appraisal provides a guide to the varied elements that contribute to the distinct character and appearance of the Conservation Area, set out the history and architectural influences. The Recreation Ground is the only feature of interest on Cumberland Road referenced in the Appraisal, other important buildings such as Grade II Listed Rosebury School and St Peters Church on Storer Road are the nearest Listed buildings.

Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

Section 72(1) of the Act requires that in exercising an Authority's planning function special attention shall be paid to the desirability of preserving or enhancing the character, setting or appearance of heritage assets.

Relevant Planning History

P/03/3484/2 – 5 Cumberland Road – Change of use from dwelling to house in multiple occupancy (7 residents) – Granted conditionally

Responses of Statutory Consultees

Leicestershire County Council (Highways)

The Local Highway Authority (LHA) advice is that, in its view the residual cumulative impacts of development can be mitigated and are not considered severe in accordance with Paragraph 32 of the NPPF, subject to the conditions.

Other Comments Received

The application has been through three consultations to amendments received (July 2016, July 2017 and November 2017). Some properties have objected to all three consultations. In summary the consultations have resulted in the following consultation responses during the course of the application:

June/July 2016 – 20 letters from 18 properties
July 2017 – 25 letters from 24 properties
November 2017 – 14 letters from 13 properties

The 14 letters of objection from local residents including several duplicate letters have been received raising the following points:

- Overdevelopment of the site
- Design – modern and contemporary design, including the use of flat roofs would be out of keeping and inappropriate in a Conservation Area
- Proposals would come forward of the existing building line
- Design appears to be more like a commercial building/unattractive office block
- 3 storeys would be over-dominant to Fearon Street
- The Design and Access Statement is misleading and presents a rosy picture of the proposed designs
- The proposed comparison to the cupola at the corner of Ashby Road/Cumberland Road is wrong
- Parking problems and requirements
- Will result in student accommodation
- Increase in noise and disturbance from students.
- Impact on number 5 and loss of garden space.

Cllr Sandra Forrest

Objects to the proposals on the following grounds:

1. The development is out of keeping with the vernacular architecture of the surrounding conservation area. Particularly with reference to Fearon Street and the Grade 2 listed St Peter's church at the other end of Fearon Street.

2. Seven flats represent an over-development of a constricted site and will be detrimental to the surrounding street scene.

3. The parking area is inadequate - the turning circle is too narrow to admit 7 cars safely. Street parking is restricted by residents' preference parking.

4. Bin storage is inadequate. Each flat will require 2 bins - one green and one black - 14 bins in all. The plans show storage for only 10 bins.

Haydon Road Residents Association

The reasons for our objection are listed below:

- This proposed development is ugly and looks like a commercial building (offices) and is inappropriate in a Conservation Area and will completely spoil the harmony of the Victorian terraces.
- The proposed development will be out of scale with the surrounding two storey houses
- It is not in keeping with the architectural style of the Conservation Area.
- The loss of the garden and mature trees.
- Regard gardens as 'amenities' that enhance a neighbourhood.
- The description of the design as responding to 'the rhythm of the locality in a contemporary style' is an erroneous claim for a design that is over-dominant and out of scale with the Victorian terraces.
- If this application were permitted it would set a precedent and lead to the ruination of the Ashby Road Conservation Area.

Storer and Ashby Area Residents' Group (SARG).

SARG has reviewed the revised proposals for developments at 5 Cumberland Road and we wish to confirm our objection. The token addition of some decorated brickwork has done little to soften the brutality of the design. The blocky, flat-roofed building is totally at odds with the aesthetic of our conservation area. It is particularly jarring on Fearon Street, where the majority of the impact of this building would be felt.

The applicant's revised statement seems to be about a different development than that offered. Phrases such as 'subdivided to respond positively to the rhythm of the locality' and 'good contemporary design within the conservation area' are a failed attempt to persuade the reader that the new building could sit comfortably alongside the classic terraced late Victorian houses of Fearon Street.

Comparing the corner treatment to the cupola at 135 Ashby Road is inaccurate. There is no similarity at all.

The area is well known for the large proportion of houses occupied by students, and the large number of anti-social behaviour complaints that result. Therefore, if this scheme should be approved, we strongly recommend that a "no student" agreement be made a condition, as has been successfully applied at other nearby new-build developments, including Ashby Grove, The Limes on Paget Street, and Brockington Place.

To the original scheme (June/July 2016) and first amendment (July 2017)

Letters from local residents and objections from Haydon Road Residents Association and Storer and Ashby Area Residents' Group (SARG) were submitted.

Comments have been received raised:

- Out of keeping with character of Conservation Area – more suitable for a town centre location.
- Loss of rear garden (importance of rear gardens is referred to in Ashby Road Conservation Area Appraisal).
- Overdevelopment of the site
- Concerns about the design – three stories and out of scale with existing two storey housing in Fearon Street. Bay windows protrude almost one metres in front of building line. Roof pitch inconsistent with neighbouring properties.
- Concerns about railings – incongruous with other frontages
- Concerns about car parking – only 4 spaces provided but only 2 useable. Requests for a S106 no car agreement or a no car condition.
- Concerns about student occupation of flats – location is close to the university – requests for a S106 No student agreement or a no student condition.
- Concerns about anti-social behaviour if flats are let to students.
- Concerns about flood risk.
- Impact on amenity and privacy for houses opposite of a three storey building
- Concern about demolition of wall and resiting of TV cable box.
- Trees in garden of no.5 Cumberland Road would need to be removed

Comments have also been received from the following individuals/ groups:

Nicky Morgan MP – Has been contacted by two constituents living on Ashby Road who wish to object to the proposed development. Judging by the strength of feeling, would appreciate that their views are taken into account.

Haydon Road Residents' Association

Provide comments summarised as follows:

The design is not in keeping with the architectural style of Fearon Street. It will be over-dominant and does not keep to the building line of its neighbour at no.18 Fearon Street. It is not sympathetic to the style of the Conservation Area being out of scale with the surrounding two-storey dwellings. Rear gardens are an important feature of the Conservation Area. The proposed building will be built in the garden of no.5 Cumberland Road- leaves the property with no garden and results in the loss of some mature trees. No parking in the area during term time – percentage of houses in area is well over 20%. Proposed apartment block would need parking spaces for nine to eighteen cars and only 4 are provided. Would be nowhere for cars to park if each flat were granted permits for on-street parking. There are concerns about student occupation of flats – areas is saturated with students and is a hotspot for anti-social behaviour. Should be rigorous enforcement of the clause in the application that says they are for the use of young professionals and not students. A section 106 no student occupation agreement with the applicant would be appropriate in this case.

Cllr Betty Newton (County Councillor for Loughborough North)

Comments about the loss of garden and trees, that the three storey building would not be in keeping with the two storey terraced housing. 20% threshold for HMOs in the area – if

the development is passed a section 106 agreement should be part of the conditions – understands that several developments since 2003 have been subject to such agreements. The area suffers from a high incidence of anti-social behaviour which should be taken into consideration.

Storer and Ashby Area Residents' Group (SARG)

SARG is not *in principle* opposed to the creation of apartments for young working people but object on several grounds:

- Design – the proposal is in the heart of the Ashby Road Conservation Area. It does not promote or enhance its surroundings, design is too bland and needs improvement, decorative brickwork at eaves level should be more prominent and in keeping with neighbouring dwellings, string courses do not enhance the block, bay windows are incongruous and need to follow more closely the design of existing local bays, railings are incongruous.
- Building line – proposal fails to respect the building line of the neighbouring dwelling at no.18 Fearon Street.
- Scale – proposal is out of scale with dwellings on Fearon Street which are two storey. A three storey building is over-dominant and does not blend well with the immediate locality
- Amenity space – this is cramped, is situated between two properties, is not overlooked and will lack light – could invite crime. Rear gardens are highlighted as a feature in the Ashby Road Conservation Area Appraisal – development completely destroys the garden of no.5 Cumberland Road including several trees protected by TPOs (*these are actually protected by their Conservation Area setting rather than TPOs*)
- Parking – heavy parking on Fearon Street and Cumberland Road. Parking provision in this application is minimal – only 2 cars would be able to use the 4 parking spaces. No capacity for issuing resident parking permits for new building which could bring 9-18 more cars to the area. A 10 minute bus service to Leicester, Shepshed and Coalville is accessible on Ashby Road, two minutes' walk away. Propose that the developer should enter into a S106 no car agreement or a no car condition. There is close monitoring of the parking situation by local residents.
- HMOs/ Students – the area has HMOs well above the 20% threshold and residents suffer harm as a result of noise and disturbance, particularly at unsocial hours. The applicant should enter into a S106 no student occupation agreement or a no student occupation condition should be applied.

Consideration of the Planning Issues

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

- i) The principle of development;
- ii) The impact on the character and appearance of the street scene and Ashby Road Conservation Area and heritage assets;
- iii) The impact on the amenity of neighbouring residential properties;
- iv) The impact on the balance of the local community;
- v) The impact on the highway;
- vi) The impact on trees/ open space/ amenity space.

The principle of development

The Council's Development Strategy in policy CS1 supports sustainable development within Loughborough. Policy CS25 promotes sustainable development. The Council's Housing Land Supply at 4.6 years is a material consideration and therefore the terms of Paragraph 14 of the NPPF are engaged and development which is sustainable and in accordance with the Development Plan should be approved.

The housing in the area surrounding the site is largely terraced, with some houses used as Houses in Multiple Occupation (C4 use) and other larger properties converted to flats. The proposed development would provide smaller self-contained flats for single people and couples and would help to ensure a mix of sizes of home in the area, in accordance with policy CS3. The Design and Access statement submitted identified the target market as being graduates and young professionals who want their own accommodation and do not want to share a house or flat with others or to have the responsibility of maintaining a larger property and gardens. The applicant claims that the proposal would free up larger flats and houses in the area to be available for family accommodation.

Whilst the concerns with regard to the loss of the garden are noted, there is no objection in principle to the loss of the garden, unless there are demonstrable and significant impacts on the character of the area. The site, however, is not considered to be previously developed land in accordance with the definitions outlined in the NPPF Glossary.

The proposed development is considered to be in a sustainable location, within an existing urban area and close to Loughborough town centre and is therefore considered to be acceptable in principle.

The proposals would therefore be in accordance with Policies CS1 and CS25 of the Core Strategy and in accordance with the aims of the NPPF.

The impact on the character and appearance of the street scene and Ashby Road Conservation Area and Heritage Assets

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in exercising an Authority's planning function special attention shall be paid to the desirability of preserving or enhancing the character, setting or appearance of heritage assets.

Policies CS2 and CS14 provide the development plan basis setting out that an application proposal should conserve and enhance our historic assets for their own value and the community, environmental and economic contribution they make and the need to promote high quality design. Saved Policy EV/1 of the Local Plan also requires high quality design. The comments and concerns of local residents, Councillors and residents' groups have been carefully considered.

The National Planning Policy Framework at paragraphs 133 and 134 requires an assessment of the potential harm a proposed development would have upon the significance of a designated heritage asset. The Practice Guidance (Paragraph 003) notes conservation is an active process of maintenance and managing change. Paragraph 008 of the Practice Guidance advises on the issue of significance. Assets should be conserved

in a manner consistent with their significance thereby achieving sustainable development. Being able to properly assess the significance of a heritage asset is very important to understanding the potential impact and acceptability of development proposals.

As discussed above the principal heritage asset in the immediate vicinity is St Pauls Church. Due to the distance and intervening properties there would be no impact on Rosebury School. The impact on St Pauls Church is also lessened as there would be a significant number of intervening properties on Fearon Street. Due to its townscape value and architectural treatment the property on the corner of Cumberland Road and Ashby Road (number 135) presents a non-designated heritage asset. Therefore considering the overall impact on the heritage, the impact of the proposals would be considered to cause less than substantial harm. This harm should be considered against the public benefits of the development.

The application site is enclosed by a brick wall of c.1.8m and this enclosure when viewed from the street and the surrounding area, reduces the impact of the proposed development. In the context of the wider street scene, the garden does not play a significant role to the character of the Conservation Area. Further it is noted that other terraces of properties develop up to the corner and back of pavement. The proposed development would therefore be in keeping with the overall rhythm of the terrace of properties to both Fearon Street and Cumberland Road.

The proposals are for a contemporary design over a mix of two/three storeys, and proposals include recesses and decorative brick detailing and soldier courses to break up the bulk and mass of the proposed building. Whilst at three storeys, the proposals would still be lower than the neighbouring property at No.5 Cumberland Road, the total height would be approximately at the eaves level of the neighbouring property on No.5 Cumberland Road and at the maximum height would be the same height as the nearest property on Fearon Street (number 18) but the adjacent element to 18 Fearon Street would also be at eaves level and would be two storeys in height.

The existing brick wall boundary would be reduced to 900mm at the corner and 600mm at the car parking entrance. The use of a glazed feature on the corner would be considered to provide activity and interest to the area. The applicant states that the corner feature to Cumberland Road/Fearon Street is influenced by the tower feature to the property on the corner of Cumberland Road and Ashby Road.

The design is a contemporary but contextual response to the site. The height, frontage width, building line and overall scale broadly follows the established pattern set by the existing neighbouring and nearby terraced and semi-detached properties. The proposals use creative design solutions and are cohesive. The brick to window ratio is also reflective of the character of the area. The proposals present an attractive and interesting solution to the design and character of the area and would potentially enhance and lift the corner of Cumberland Road and Fearon Street compared to the existing brick wall.

Taking account of the character of the area and proposed site coverage, the proposals would not represent overdevelopment of the site and have been designed in a manner to reflect the density and character of the area.

Overall, it is considered that the quality of the development would be an enhancement to the area and the corner of Cumberland Road and Fearon Street; the provision of additional properties to the benefit of the Council Housing Land Supply; the proposals would supply smaller properties which would create an opportunity in a sustainable location for first time house-buyers; and the environmental improvement through the reduction in the height of the current boundary wall would outweigh the less than substantial harm to heritage assets that have been identified.

As such, the proposed development is considered to preserve and enhance the character and appearance of this part of the Ashby Road Conservation Area and would therefore be in accordance with the aims and objectives of the National Planning Policy Framework and policies EV/1 of the Charnwood Local Plan and CS2 and CS14 of the Charnwood Core Strategy and the Conservation Area Appraisal for the Ashby Road Conservation Area.

Impact on the amenity of neighbouring properties

In considering the impact on neighbouring and nearby properties the relevant policies are Saved Policy EV/1 of the Local Plan and Policy CS2 of the Core Strategy and are supported by the Leading in Design SPD.

Impact on no.5 Cumberland Road

The Location Plan indicates that no.5 is within the ownership of the applicant. However, it is well established that the planning system operates in the public interest rather than any private or individual interests and therefore the amenity of future occupants of no.5 Cumberland Road must be taken into account.

The proposed development would block light to windows on the northwest side of the existing property at 5 Cumberland Road. However, the property would still be well served by light to the large windows on the front. It is acknowledged that there would be some loss of light to rear rooms at the property which are served by windows on the rear or side. However, the mitigation provided by the reduction in scale of the development through the amended plans submitted is considered sufficient to overcome the concern as a justification for refusal. The second floor windows in no.5 would be largely unaffected by the proposals.

The proposed scheme would result in a difference to the outlook and living conditions currently experienced by the occupiers of 5 Cumberland. However, change does not equate necessarily to harm. As a result of the detailed consideration of the side facing windows in terms of purpose (secondary) and the amount of light still anticipated to reach the side facing windows, the impact would be acceptable and the proposed development would not cause significant material harm to justify a refusal.

Impact on properties opposite on Fearon Street

The separation distance between the proposed flats and the properties on the opposite side of Fearon Street is approximately 16.5 metres. Whilst this does not meet the space standard of 21 metres, outlined in Appendix 4 of the Council's 'Leading in Design' Supplementary Planning Document, it is acknowledged that the distance would be no different to the distance between other facing properties on Fearon Street, particularly now

the proposed development has been reduced to two storey (the separation distance is 27.5 metres for three storey dwellings and above).

In addition, the Council's 'House Extensions' Supplementary Planning Guidance advises that problems with loss of sunlight are likely to occur when some part of a proposal is within 90 degrees of a south facing window on an existing property and where the height of a proposal exceeds a 25 degree angle (taken from a point 2 metres above ground level at the affected property). Although this guidance refers to house extensions it is nevertheless considered relevant in this case, being applied to residential development. The front windows of the properties on the opposite side of Fearon Street face south east. The three storey part of the development would rise to an angle of approximately 25 degrees when applying the method to no.51 Fearon Street. However, as the roof is gabled at this end, the loss of sunlight is only considered to be marginal as it would only be for a short period of time.

Impact on adjacent property at no.18 Fearon Street

The proposed development would only extend marginally forward of no.18 Fearon Street at the front and would not extend beyond the rear of the adjacent property. No.18 Fearon Street does not have any side facing windows which would be impacted by the proposed development.

Overall the proposals are considered to be acceptable and would not result in a significant adverse impact on the amenities of neighbouring residents.

The impact on the balance of the local community

The application proposes 7 one bedroom flats which would be in C3 use and the size and nature of the flats would mean they would most likely be occupied by single people or couples.

Concerns have been expressed about the potential for the flats to be occupied by students and the impact this would have on the balance of the local community. Policy CS4 of the Core Strategy seeks to manage the proportion of houses in multiple occupation (HMOs). The Council also has a SPD on Student Housing Provision in Loughborough which identifies that where the proportion of HMOs in an area exceeds 20%, the problems associated with higher concentrations of students in an area, such as noise, anti-social behaviour and parking problems, are more likely to occur. However, policy CS4 and the Student Housing Provision SPD are not considered relevant to the determination of this application as the flats would all be in C3 use.

Some residents have requested that a section 106 agreement or planning condition should be used to prevent the occupation of the flats by students. Given the small size of the flats, they would only be occupied by one person or a couple. Whilst this would not preclude their occupation by students, it is considered that undergraduate students normally have a preference for shared accommodation, rather than single room self-contained flats. Furthermore, given that no more than two people are likely to be sharing each flat, any noise and disturbance is predicted to be limited. In addition, such a condition or legal agreement would discriminate against post-graduate or mature students. Further, the proposals are designed as a C3 independent flats not for Houses of Multiple Occupation and therefore a condition is unnecessary.

As such, it is considered that a section 106 agreement or planning condition preventing the occupation of the flats by students would not be necessary, relevant to the development to be permitted, easily enforceable or reasonable, and would therefore not meet the six tests of planning conditions outlined in paragraph 206 of the NPPF. Furthermore, a section 106 agreement is not considered appropriate as this should only be used to assist in mitigating the impact of unacceptable development to make it acceptable in planning terms.

The impact on the highway

Policy CS18 of the Core Strategy seeks to ensure that the development does not impact on the highway network. Saved Policy TR/18 of the Local Plan seeks to ensure appropriate car parking provision is delivered taking account of the type of accommodation and location in relation to shops, services and public transport.

Taking into consideration analysis carried out by the Highway Authority using the calculations detailed in the Department for Communities and Local Government document 'Residential Car Parking Research and the sustainable, accessible location of the development', if the spaces within the development as detailed on Drawing No. L1531 10 Rev. K remain as shared (unallocated) for the proposed and existing dwellings, the proposed number of car parking spaces are acceptable.

As above, the Highway Authority advises that appropriate details of design can be secured by use of the planning conditions and have been recommended.

The impact on trees/ open space/amenity space

Policies CS2, CS12 and CS14 of the Core Strategy are important considerations having regard to the importance of the natural environment to the character of the Conservation Area and the overall design of the area.

There are a number of small trees within the existing garden of no.5 Cumberland Road which would need to be felled to allow for the proposed development. Although these are within the Conservation Area, it is not considered that any of these trees are of significant public amenity value and therefore it would not be appropriate for a Tree Preservation Order to be issued to ensure their retention.

The proposal would, however, result in a loss of some of the current garden to no.5 Cumberland Road, which is surrounded by a high wall. The Ashby Road Conservation Area Appraisal states on page 19 that "the gardens to the rear of the terraced houses provide important and valuable private spaces for the residents". This issue has been discussed in detail above and it was concluded that the proposal did not cause unacceptable harm.

The loss of part of the garden is not considered detrimental to the street scene or character of the area or the Conservation Area. The property of No.5 Cumberland would still have a comparable garden to other properties in the area after the development is completed. As such the proposals are considered to be acceptable and in accordance with Policies CS2, CS12 and CS14 of the Core Strategy and the aims and objectives of the NPPF

Conclusions

Overall, the proposals have been carefully assessed against the comments and consultation responses received and the policies of the Development Plan and the National Planning Policy Framework.

In summary, the application site is in a sustainable location within the Loughborough area that is strongly supported by Policy CS1 of the Core Strategy. The proposed development is considered to be an appropriate development that would preserve and enhance the Conservation Area and would not cause harm to the significance of the Ashby Road Conservation. The contemporary design solution provides an appropriate contextual design response. The proposals would not harm the amenities of neighbouring properties and the advice of the highway authority has been considered in terms of the level of car parking proposed.

The proposed development would provide accommodation for graduates and young professionals, which the applicant identifies as the target market, and it is claimed that this would free up larger flats and houses in the area for family accommodation.

In the absence of a five year housing land supply Paragraph 14 of the NPPF advises that planning permission should be granted unless 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, It is considered that the proposals are acceptable having taken into account relevant policies of the Development Plan including policies CS1, CS2, CS3, CS4, CS12, CS14, CS16, CS17, CS18 and CS25 of the Core Strategy and saved policies EV/1 and TR/18 of the Local Plan, and material considerations including and the aims and objectives of the National Planning Policy Framework and associated guidance.

RECOMMENDATION:-

Grant Conditionally

- 1 The development, hereby permitted, shall be begun not later than 3 years from the date of this permission.
REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The development hereby permitted shall be carried out in accordance with the approved plans and Drawing Nos. L1531 10 Rev. K; L1531 11 Rev. J; L1531 12 Rev. J; L1531 50 Rev. J; and L1531 51 Rev. H
REASON: To define the permission.
- 3 No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Drawing No. L1531 10 Rev. K have been implemented in full.
REASON: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of

general highway safety and in accordance with Paragraph 32 of the National Planning Policy Framework 2012.

- 4 No materials shall be placed on the site until such time as details of the type, texture and colour of the materials to be used on the external surfaces of the proposed development have been submitted for the agreement of the local planning authority. Only materials agreed in writing by the local planning authority shall be used in carrying out the development.
REASON: To make sure that the appearance of the completed development is satisfactory.
- 5 The development hereby permitted shall not be occupied until such time as the access drives have been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least five metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.
REASON: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with Paragraph 32 of the National Planning Policy Framework 2012.
- 6 No part of the development hereby permitted shall be occupied until such time as a one metre by one metre pedestrian visibility splay have been provided on the highway boundary on the south-west side of the access with nothing within that splay higher than 0.6 metres above the level of the adjacent footway and, once provided, shall be so maintained in perpetuity.
REASON: In the interests of pedestrian safety and in accordance with Paragraph 32 of the National Planning Policy Framework 2012.
- 7 Before the development commences, details of parking and turning facilities within the site shall be submitted to the Local Planning Authority for approval in writing. Before first occupation of the development, the approved parking and turning shall be provided and shall thereafter not be obstructed and shall permanently remain available for parking and turning.
REASON: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with Paragraphs 32 and 35 of the National Planning Policy Framework 2012.
- 8 No works shall begin until details of the design, materials of construction and finish of all new window openings have been submitted to and agreed in writing by the local planning authority. The works shall be carried out only in accordance with the agreed details.
REASON: To ensure the satisfactory appearance of the completed development and having regard to the importance of the detail to the character of the Conservation Area.
- 9 No works shall begin until details showing the means of construction of the brick walls of all new buildings, including details of the pointing and strength and colour of mortar mixes, have been submitted to and agreed in writing by the local planning authority. The works shall be carried out only in accordance with the

agreed details.

REASON: To make sure that the works are carried out in a way which respects the special architectural and historic interest of the Conservation Area.

- 10 No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and otherwise such works shall only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 13.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

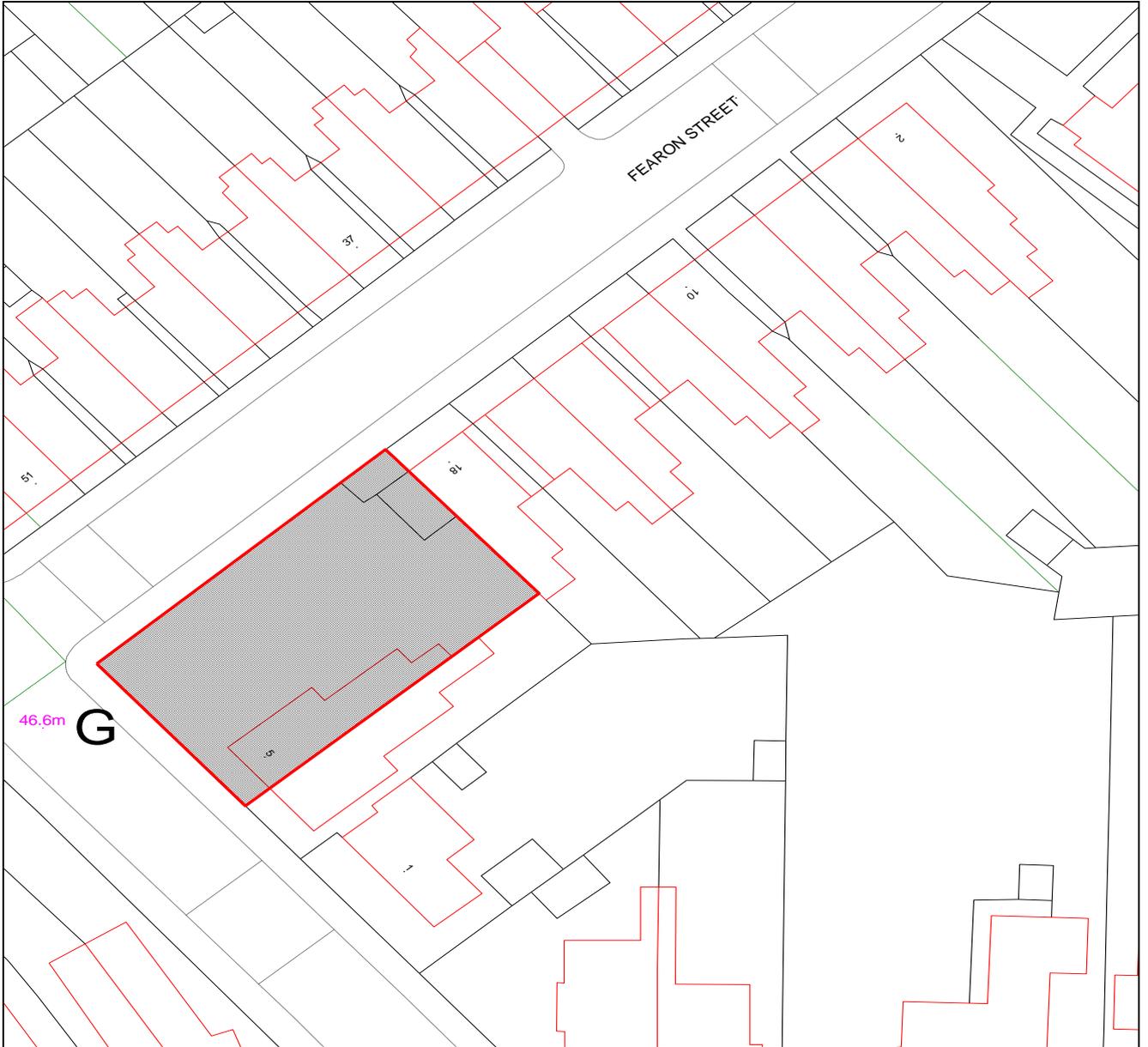
REASON: In the interests of the amenity of adjacent occupiers.

- 11 Prior to the commencement of development the details of cycle and bin stores shall be submitted for the approval of the Local Planning Authority. The approved details shall be implemented prior to the first occupation.

REASON: To ensure the satisfactory appearance of the development and to promote use of the bike, and minimise use of the car.

The following advice notes will be attached to a decision:

- 1 The decision has been reached taking into account paragraphs 186-187 of the National Planning Policy Framework and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 2 The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process. This led to improvements to the scheme to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 3 Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council (LCC) as Local Highway Authority (LHA). This will take the form of a major section 184 permit. It is strongly recommended that you make contact with LCC at the earliest opportunity to allow time for the process to be completed. For further information please refer to the 6Cs Design Guide which is available at <https://www.leicestershire.gov.uk/environment-and-planning/planning/6cs-design-guide>.
- 4 The provisions of the Party Wall Act 1996 may apply in relation to the boundary with the neighbouring property at 5 Cumberland Road and properties on Fearon Street. A Solicitor or Chartered Surveyor should be able to give advice about whether and how the proposed work falls within the scope of this Act.



This material has been reproduced from Ordnance Survey digital map data with the permission of the controller of Her Majesty's Stationery Office, © Crown Copyright.