

## Item No. 1

<b>Application No:</b>	P/09/0124/2	<b>Date:</b>	5th February 2009
<b>Application Type:</b>	Full	<b>Valid:</b>	
<b>Applicant:</b>	Anaash Holdings		
<b>Proposal:</b>	Erection of 4 storey student accommodation containing 1 x 1-bedroom, 5 x 3-bedroom, 7 x 4-bedroom, 9 x 5-bedroom cluster flats and ancillary use on the ground floor. (Revised Scheme - P/08/2343/2 refers)		
<b>Location:</b>	Temple Filling Station, Ashby Road, Loughborough, LE11 3QU		
<b>Parish:</b>	Loughborough	<b>Ward:</b>	Loughborough Garendon Ward
<b>Case Officer:</b>	Mr G Smith	<b>Tel No:</b>	01509 632521

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### Description of the Application

This application relates to a site, formerly the Temple filling station, to the north of Ashby Road, the A512 main access road into Loughborough from the M1. The site abuts houses on Abberton Way to the east and is opposite a remaining filling station on the south side of Ashby Road. It is within the development limits of Loughborough as detailed within the adopted Borough of Charnwood Local Plan. To the south-west is part of the site for the extension to the Science Park permitted subject to the signing of Section 106 agreements at the Plans Committee 2 on the 19<sup>th</sup> February. To the west of the site is a sports pitch and there are a number of mature trees abutting and within the site some of which are now the subject of a Tree Preservation Order.

The application comprises of a 4 and part 3-storey building with vehicular access off Ashby Road serving an external car park for 12 vehicles and additional 2 disabled parking bays and 5 integral parking bays. The car parking is for on site employees, visitors and for residents 'dropping off'. Residents will have tenancy agreements that will include no-car agreements. The proposal provides 89 en-suite rooms for students with shared kitchen and living room facilities. The scheme has bin storage to be enclosed within the building at the lower ground floor level, and has sheltered parking for 68 bicycles. The scheme has reception, lounge and storage facilities with the main entrance from the car park but also a pedestrian entrance from Ashby Road. The scheme has a central lift accessing all floors.

The 4 storey building would appear to be three storied when viewed from Ashby Road. The site slopes away from the road and there would be a ground floor largely below road level. The four storeys would be seen when approaching the site in both directions and from the nearby housing area. The rear section on the north/rear side of the building would be three storey. The proposal includes a corner tower design feature on the south-western corner, and has large glazed cladding on the corner tower with grey brick and white render, with beige smooth metal cladding. The roof would be in being cream, profiled metal cladding. The applicants have submitted a Preliminary 'BREEAM' assessment which indicates that the building would achieve a

'Very Good' rating which means a high standard of sustainable construction and use of energy.

The applicant has indicated that he will enter into an agreement with the planning authority under Section 106 of the Town and Country Planning Act 1990 which will prohibit anyone who owns, or has habitual use of a car from occupying the accommodation, unless they have an agreed dedicated parking space for their use. The control is through the terms of the tenancy. The agreement will also relate to the making of a contribution towards youth/adult recreation, in lieu of on-site provision. At the time of writing this report further discussions are taking place regarding contributions for public transport issues and healthcare provision.

## **Development Plan Policies and other material considerations**

- **Development Plan Policies**

### East Midlands Regional Spatial Strategy 2009

Policy 1 sets out the regional core objectives. It requires local planning authorities to reduce social exclusion, protect and where possible enhance the quality of the environment in urban and rural areas so as to make them safe and attractive places to live and work; to protect and enhance the natural cultural and historic assets, avoiding significant harm or damage; to achieve a step change in biodiversity; a reduction of carbon emissions and minimise adverse environmental impacts through the promotion of sustainable design and construction techniques; reduce the causes of climate change through best use of existing infrastructure, promoting sustainable design and construction, locating development so as to reduce the need to travel especially by car; and, reduce the impact of climate change from flooding by providing carbon sinks, promoting sustainable drainage and managing flood water.

Policy 2 requires local planning authorities to improve design by the use of design led approaches which will reduce CO2 emissions and provide resilience to future climate change. This includes SUDS, management of flood water, low carbon technologies, and build orientation. Land should be used efficiently, and new development located to allow access to local facilities by foot, cycle or public transport. Design should reduce crime, maintain amenity and privacy and benefit quality of life including access to open space.

Policy 3 sets out the location criteria that should be considered when allocating land for new development. Development should be concentrated within the areas five principle urban areas. Smaller scale development is appropriate within Loughborough. Priority should be given to making the best use of previously developed land achieving the regional target of 60% of additional dwellings.

### Borough of Charnwood Local Plan (adopted 12<sup>th</sup> January 2004)

Policy ST/1 - In providing for the development needs of the borough, measures will be taken, amongst other things to pursue a sustainable pattern of development and

remains generally compatible in scale and character with its location; and promotes the beneficial use of vacant, derelict and underused land.

Policy ST/3 – Infrastructure. When granting planning permission for new development which would not be acceptable without reasonably related infrastructure or community facilities, the Borough Council will seek to secure their provision by entering into a legal agreement and will negotiate accordingly.

Policy EV/1- Design. New development should:

- i) respect and enhance the local environment including the scale, location, character, form and function of existing settlements;
- ii) Be of a design, layout, scale, and mass compatible with the locality and any neighbouring buildings and spaces;
- iii) Utilise materials appropriate to the locality;
- iv) Provide positive and attractive built frontages;
- vii) Safeguard the amenity of adjoining properties;

Policy H/12 says planning permission will be granted for new buildings or the re-use of non-residential properties specifically for student accommodation at locations on or readily accessible by cycle, public transport or on foot to, the university and college campuses. Planning permission will be granted for developments which include reduced parking standards where it can be shown that there would be no adverse impact in the vicinity of the site.

Policy TR/5 indicates that developments for more than 25 dwellings should be in locations where there is good public transport and opportunities for good pedestrian and cycle links.

Policy TR/6 reflects the need to ensure that new development does not overload the road system and result in unsafe highway operation or have an unsatisfactory environmental effect.

Policy RT/4 – Youth/Adult Play provision. Development should provide appropriate levels of recreation space or make a contribution to its provision through the payment of a commuted sum.

#### • **Other Policies**

PPSI (Delivering sustainable development) indicates that sustainable development is the core principle underpinning planning. Planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by:

- contributing to sustainable economic development;
  - protecting and enhancing the natural and historic environment and existing communities;
  - ensuring high quality development through good and inclusive design, and the efficient use of resources; and,
- ensuring that development supports existing communities and contributes to the creation of safe, sustainable, liveable and mixed communities with good access to jobs and key services for all members of the community.

## Section 106 Developer Contributions SPD.

Legally binding agreements may be required to ensure that development does not increase pressure on existing community facilities and minimise the impact on the amenities of the surrounding area. They can oblige the developer to invest in improving local facilities and other works outside the site of a development in order to mitigate its impact.

## Student Housing in Loughborough SPD

For areas of population where students households represent more than 20% of all households, planning permission will not be granted for the development of purpose built student housing. Where a development would give rise to excessive noise or disturbance to neighbouring dwellings, the percentage is 10%.

## Leading in Design

The SPD recommends separation distances within new and between new and existing development, to protect privacy, between rear building elevations containing main habitable room windows. These standards are:

- 27.5m where main habitable room windows above ground floor level would overlook existing conventional dwellings; and
- 27.5m for 3-storey dwellings and above.

These separation distances should be increased by 1m for every 0.4m difference in floor levels between dwellings.

### • **Other Material Considerations**

The Crime and Disorder Act 1998 places a duty on the local planning authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on community safety is therefore a material consideration in the determination of this planning application.

### **Relevant Planning History**

Permission was resolved to be granted for 24 2 bedroom flats and associated car parking in August 2004 but was eventually withdrawn due to failure to sign a Section 106 agreement. However this was revised in 2005 and permission was granted for a 4-storey building for 20 flats. This permission is still valid.

### **Responses of Statutory Consultees**

Leicestershire County Council requests a contribution of £1360 for Library media.

The Environmental Health Officer considers the 'Assessment of Potentially Contaminated land' is acceptable and requests conditions be attached requiring the proposed mitigation measures be implemented. She also considers the 'Noise

Assessment' to be acceptable and similarly requests conditions be attached requiring mitigation measures be implemented.

The Highway Authority originally objected to the degree of parking proposed. However, as the applicant has confirmed that the scheme would include a 'no-car' agreement for future residents of the development, it no longer objects to the proposal. It considers the access proposal to be acceptable.

### **Other Comments Received**

Councillor Hunt requested this application be reported to Plans Committee.

Objections from occupiers of 12 nearby properties refer to the following issues:

- The proposed 'no car' agreement will be ineffective, leading to cars parking around the residential area where parking problems related to the university already exist, and there is insufficient car parking;
- It will add to the congestion on Ashby Road;
- Traffic safety concerns relating to the traffic lights controlled junction nearby and the likelihood of dangerous 'U' turn manoeuvres;
- Security, crime and disorder, and noise disturbance concerns for neighbours relating to the use of the site by students;
- Concerns regarding the impact on the protected trees;
- Possible light pollution from the site at the backs of neighbouring houses;
- The need for more student accommodation?
- Concerns regarding the nuisance created by construction of the development in terms of noise and dust.
- Concerns regarding the boundaries of land ownership of residents on Abberton Way and the development site;
- Possible pedestrian access into Abberton Way from the development would cause additional disturbance;
- The proposal is out of character with the area;
- Likely overlooking of, and loss of light to, neighbouring residential properties;

### **Consideration of the Planning Issues**

The key issues are the principle of development, the impact of the proposal on the amenity of nearby residents and, in the context of the existing permission, the impact on highway safety and parking proposals, and the design of the building.

#### The principle of the development.

The proposal is within the development limits. It is also near to the university but only abuts a small number of residential properties. It is near to public transport routes and would have good cycling access to the university. As such the proposal is considered to represent a sustainable location and the principle of development is considered to be acceptable, subject to the consideration of the following issues.

#### The impact of the proposal on the amenity of nearby residents.

The existing permission for flats involves a building of very similar scale and layout to the application proposal. The drawings submitted include the outline of the

outstanding flats scheme which indicated a taller corner tower than is currently proposed, and a similar ridge height of roof, although a 4-storey façade which faces the rear of houses on Abberton Way would be 43 metres from the nearest house, 4.5 metres closer than the façade of the permitted flats. The distance from the 4-storey element that faces the rear of houses on Abberton Way complies with standards within 'Leading in Design' and therefore an objection to the development on the basis of unacceptable loss of privacy, light or overdominance would be very difficult to sustain. The difference between the outstanding scheme and the proposed is not considered significant.

The element of the proposal that is parallel to Ashby Road is 5 metres deeper than the approved flats scheme. This results in a rear gable which will be 23 metres from the rear aspect of the nearest house, No 56 Abberton Way, compared to 24.5 metres on the approved scheme and moves from an oblique angle of 60° previously permitted to one of approximately 72°. Again the difference to the previous scheme is considered minimal. There is only a narrow window serving a proposed living area which is proposed to be obscure glazed. Therefore, there will be no additional loss of privacy and the distance of 23 metres and the oblique angle of 72 ° is considered acceptable in terms of consideration of overdominance.

This proposal has included landscaping alongside the proposed access road which will be ramped down into the site. The planting and the retention of the trees on the eastern boundary would help screen the building and reduce the visual impact when viewed from the rear of houses on Abberton Way. The scheme includes a timber fence set into the site (inside the landscaped area) to ensure no pedestrian access to the neighbours boundary could exist. An amended plan has indicated low level and bollard lighting in the car park areas, intended to provide security for residents without causing nuisance for neighbours.

The proposal is considered to comply with policy considerations regarding the protection of residential amenity of the occupiers of neighbouring properties.

#### The impact on highway safety and parking proposals

The proposal replaces a petrol filling station which had access off Ashby Road and presumably generated a significant level of vehicular movement. This scheme has parking only for employees and visitors to the site. The proposal is not therefore considered likely to have a significantly detrimental impact on highway safety, in comparison to, either, the previous use, or the flats proposal where parking served 20 flats. The highway authority does not object to the proposal in terms of impact on highway safety.

The applicant has agreed to enter into a 'no car' agreement similar to those attached to a number of student flat developments permitted by plans committees in recent years. There is no evidence to support the allegation that these schemes have proved unsuccessful in prohibiting students who occupying the development and operating cars from them. It has been necessary to investigate a few instances of parking associated with two developments close to the town centre and in all cases the approach by enforcement officers has resulted in immediate action and the removal of the vehicles concerned. Formal action has not been necessary in either

instance. In this instance the applicant confirms he is willing to operate a 24 hour telephone service for residents to investigate any complaints regarding tenants of the site that may not comply with the agreement. It is considered therefore that subject to the applicant signing the necessary Section 106 agreement requiring a 'No car' restriction, the development will not result in additional parking pressures on the surrounding streets and acceptable dropping off and visitor parking is provided.

#### The design of the building and sustainable construction.

The scheme is similar in appearance to the permitted flats, having a modern appearance with a corner tower and both horizontal plinth and vertical bay features to break up what could be repetitive large facades. It is considered that the proposal will provide a landmark building, which when completed, would provide a gateway into Loughborough along with the development of the Science Park opposite. The applicant has been asked to consider alternative materials moving away from the grey-brick currently proposed. Any alterations will be reported to committee in the extras report. The final choice of materials can be controlled by conditions. Subject to this, the proposed design is considered to be acceptable and in compliance with Policy EV/1.

The proposal includes a number of sustainable features identified in the applicant's preliminary BREEAM assessment of a 'very good' rating which are considered to adhere to policy concerns in both 'Leading in Design' and the Regional Spatial Strategy.

### **RECOMMENDATION A**

(i) That authority is given to the Directors of Development and Governance and Procurement to enter into an agreement under Section 106 of the Town and Country Planning Act to secure infrastructure contributions and the non-use of cars by occupiers of the development, as detailed in the report.

(ii) That delegated authority is given to the Director of Development to refuse planning permission in the event that the Section 106 Agreement has not been completed within the 13 week determination period for this planning application for the following reason:

"The proposed development is a major scheme, which, without the appropriate supporting infrastructure in relation to recreational and community provision and the Failure to ensure the non-use of cars by occupiers of the development will have a detrimental effect in the local area contrary to the provisions of Policy ST/3 of the Borough of Charnwood Local Plan and the Council's adopted Supplementary Planning Documents on Developer Contributions".

### **RECOMMENDATION B**

That subject to the completion of an agreement relating to the matters in Recommendation A above, the Director of Development be authorised to grant planning permission, subject to the following conditions:

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 - 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.

3 - All windows installed in habitable rooms facing the A512 highway corridor shall be fitted with double or secondary glazing capable of achieving a night time internal noise attenuation of 35dBA when closed. The specification for the glazing shall comply with the proposals submitted by the applicants agent, Acoustic Associates (Nottinghamshire), for double glazing units with a minimum configuration of 10 mm glass plus 6mm glass with a 12mm cavity.

Reason: In the interest of safeguarding the residential amenity of future residents of rooms facing the A512 road corridor.

4 - All habitable rooms fitted with double or secondary glazing which face the A512 highway corridor shall be provided with acoustically attenuated external ventilation in order to permit adequate air circulations within the rooms without the necessity to open windows.

Reason: To provide satisfactory ventilation whilst safeguarding residential amenity of future residents of rooms facing the A512 road corridor.

5 - Prior to occupation of the development hereby permitted, all the recommendations and precautions detailed in Section 6.3 of the Assessment of Potentially Contaminated Land report received by the Borough Council on 22nd January 2009, shall have been implemented

Reason: To ensure health risks are controlled effectively.

6 - Upon completion of the measures referred to in Condition No 5, a site validation report shall be submitted to the local planning authority to provide conclusive evidence that the remediation measures have been implemented and that the site is suitable for its intended use.

Reason: To ensure the safety of residents and the public within or near to the site.

7 - Before occupation of the development hereby permitted any additional or unforeseen contamination encountered during the development of the site shall be notified to the Borough Council as local planning authority. A scheme to deal with this contamination shall be submitted to and approved in writing by the council and the approved scheme shall be undertaken.

Reason: In the interests of safety of future occupiers and the wider public in the event of unforeseen ground contamination being present on the site.

8 - No development, including site works, shall begin until a landscaping scheme, to include those details specified below, has been submitted to and agreed in writing by the local planning authority:

- i) the treatment proposed for all ground surfaces, including hard areas;
- ii) full details of tree planting;
- iii) planting schedules, noting the species, sizes, numbers and densities of plants;
- iv) finished levels or contours;
- v) any structures to be erected or constructed;
- vi) functional services above and below ground; and
- vii) all existing trees, hedges and other landscape features, indicating clearly those to be removed..

REASON: To make sure that a satisfactory landscaping scheme for the development is agreed.

9 - The landscaping scheme shall be fully completed, in accordance with the details agreed under the terms of the above condition, in the first planting and seeding seasons following the first occupation of any part of the development or in accordance with a programme previously agreed in writing by the local planning authority. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased, within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted.

REASON: To make sure that the appearance of the completed development is satisfactory and to help assimilate the development into its surroundings.

10 - The two windows serving the communal living areas on the easternmost gable at first floor level shall be glazed with obscure glass which shall thereafter be retained at all times. Details of the glazing specification shall first be submitted for the approval in writing of the local planning authority. No changes shall be made to these windows nor shall any additional windows be inserted in this elevation thereafter.

REASON: To minimise the effect of the development on the privacy and amenities of nearby residents.

11 - The development shall be carried out only in accordance with the details and specifications included in the submitted application, as amended by the revised drawing No K22/0789-29 Rev E received by the local planning authority on 13th March 2009 and showing landscaping and lighting proposals.

REASON: To make sure that the scheme takes the form agreed by the authority and thus results in a satisfactory form of development.

12 - No use or occupation of the development shall begin until the cycle parking provision has been made, using Sheffield racks or similar, in accordance with the details shown on the approved plans. The provision for cycles shall thereafter not be used for any other purpose.

REASON: To encourage the use of bicycles as an alternative to the car.

13 - No development, including site works, shall begin until the trees shown to be retained on the approved plan and those in the vicinity of the site boundary have been protected, in a manner which shall have first been submitted to and agreed in writing by the local planning authority. Each tree shall be protected in the agreed manner for the duration of building operations on the application site. Within the areas agreed to be protected, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil of any kind shall be placed or stored thereon. If any trenches for services are required in the protected areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left unsevered.

REASON: The trees are important features in the area and this condition is imposed to make sure that they are properly protected while building works take place on the site.

14 - No development, including site works, shall take place until a scheme for the treatment of the application site boundaries has been submitted to and agreed in writing by the local planning authority.

REASON: To ensure the satisfactory, overall appearance of the completed development.

15 - No use or occupation of the building hereby permitted shall take place until the scheme for boundary treatment, agreed under the terms of the above condition, has been fully completed.

REASON: To ensure the satisfactory, overall appearance of the completed development.

#### Informatives

1

DEVELOPMENT PLAN POLICIES RELEVANT TO THIS DEVELOPMENT - Policies EV/1, and xxx of the Borough of Charnwood Local Plan (adopted 12th January 2004) have been taken into account in the determination of this application. The proposed development complies with the requirements of these saved Local Plan policies and there are no other material considerations which are of significant weight in reaching a decision on this application.

2

Planning permission has been granted for this development because the Council has determined that, although representations have been received against the proposal, it is generally in accord with the terms of the above-mentioned policy/ies and, otherwise, no harm would arise such as to warrant the refusal of planning permission.

3

To achieve the reasonable target for internal noise levels as recommended in BS8233: 1999 sound insulation and noise reduction for buildings for both bedroom and living rooms, dwellings should be constructed in accordance with recommendations detailed in the building research document Sound control for homes in order to achieve the required 30dB(A) reduction as detailed in the Noise Assessment report.

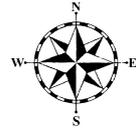
4

Suitable and sufficient health and safety procedures for working on the site and when excavation into the contaminated material shall be adopted and adhered to. A site management plan for the life of the site shall be devised and implemented to ensure that all of the above issues are addressed and clearly documented. This should include detailing the location and nature of any elevated material remaining on site for the information of future occupiers.



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**Location:** Temple Filling Station, Ashby Road, Loughborough, LE11 3QU  
**Scale:** 1:1250

