

**DEVELOPMENT CONTROL AND REGULATORY BOARD****11th July 2024****REPORT OF THE CHIEF EXECUTIVE****COUNTY MATTER****PART A – SUMMARY REPORT**

- APP.NO. & DATE:** 2024/Reg3Mi/0047/LCC (2024/0735/02)
18 April 2024
- PROPOSAL:** Change of Use from a domestic dwelling, use class C3 to use class C2 - Children's Home
- LOCATION:** 149 Mountsorrel Lane, Rothley, LE7 7PU
- APPLICANT:** Leicestershire County Council – Children & Family
- MAIN ISSUES:** Principle of development
Parking and highways
Activity and disturbance
Impact on residential amenity
Fear of crime
- RECOMMENDATION:** **PERMIT** – subject to conditions

Circulation Under Local Issues Alert Procedure

Mr. L. Hadji-Nikolaou CC

Officer to Contact

Rob Tollyfield (Tel. 0116 305 2733).
Email: planningcontrol@leics.gov.uk

PART B – MAIN REPORT

The Site and Surroundings

1. The application site is located on the eastern side of Mountsorrel Lane at the northern edge of Rothley. The area is predominantly residential, with dwellings to the south, east and west. To the north is a public park with associated playground area. This part of Mountsorrel Lane is characterised by a mix of detached bungalows and larger two-storey dwellings. A mixture of brick and white render form the majority of the materials palette.
2. The property itself is a recently renovated bungalow, with off-street parking to the front and a modestly sized garden to the rear. Boundary treatments consist of closed boarded timber fencing to the sides and rear, with a hedgerow to the front.

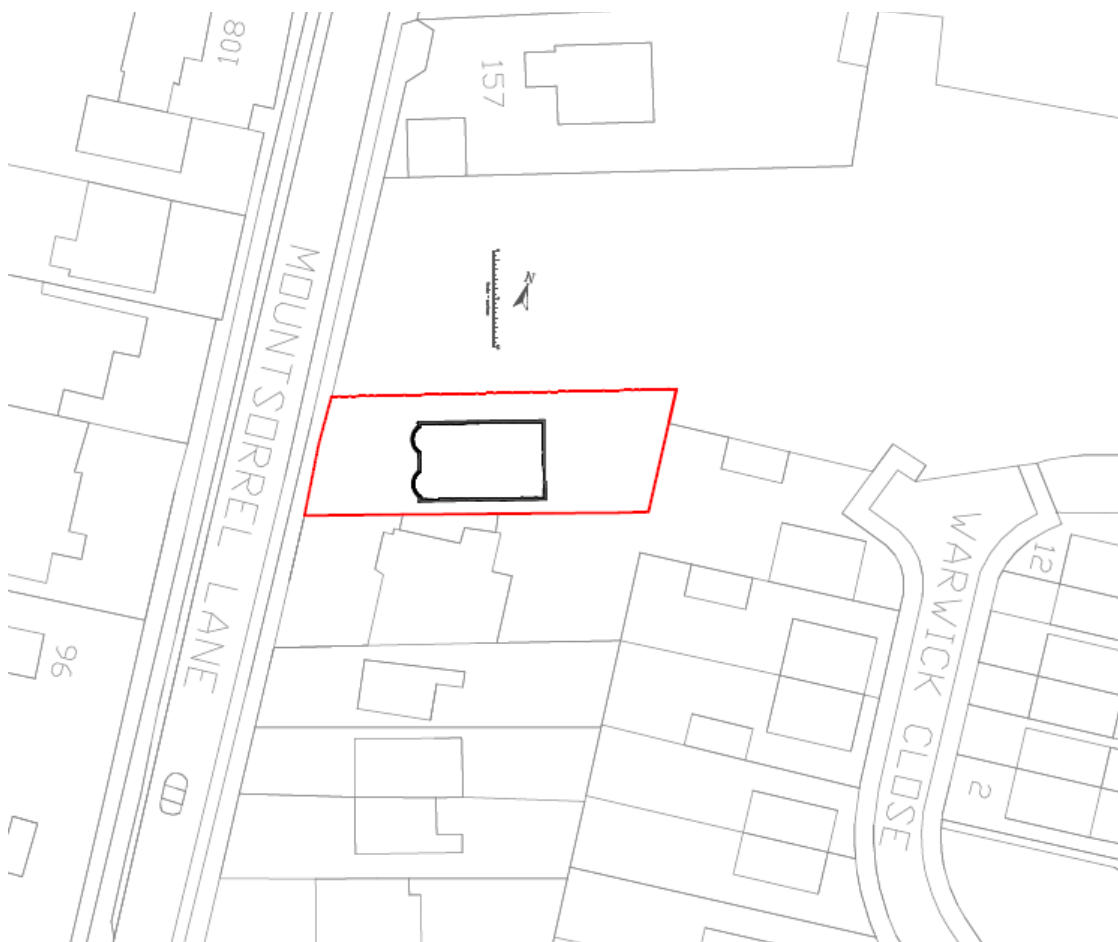


Figure 1. Site Location

Planning History

3. There are no previous County Matter or District applications associated with this property.

Description of Proposal

4. The proposal involves the change of use from a family dwelling (Use Class C3) to a Children's Home (Use Class C2). The property would primarily be a home for two children, but occasionally three children. There would be adults in the home directly responsible for caring for the children. At night there would always be an adult in charge of the home and the children's care. It is proposed that the care of the children would be delivered by Barnardo's, but the children would formally be in the care of the County Council. It is proposed that an existing attic room would be used as the Manager's office / bedroom with all other rooms retaining their current function.
5. The home would have a registered manager and would be registered with Ofsted. Other professional adults relating to the care of the children would visit the children in the home from time to time depending on the individual needs of the children.
6. It is estimated by the applicant that it is unlikely there would be more than three cars present at any one time. Outside the property the existing parking and rear garden areas would be retained with landscape management arrangements put in place for maintenance.

Planning Policy

The Development Plan

Charnwood Local Plan Core Strategy 2011 to 2028 (adopted November 2015)

7. The vision and objectives include "Our community will have access to homes to suit their needs. In particular, there will be a good provision of affordable housing particularly in rural communities. Issues previously associated with houses in multiple occupation will have been managed and social cohesion will have improved" (page 14). Strategic objectives relevant to this planning application include SO2 through to SO6.
8. Rothley is identified as a 'Service Centre' on the Local Plan key diagram, this reflects a good range of services and facilities and good transport links enabling Rothley to provide for the daily needs of the people living there as well as supporting nearby communities.
9. The key policies of the adopted Local Plan relevant to this planning application are:
 - a) Policy CS1: Development Strategy
 - b) Policy CS3: Strategic Housing Needs
 - c) Policy CS6: Employment and Economic Development
 - d) Policy CS16: Sustainable Construction and Energy
 - e) Policy CS17: Sustainable Travel
 - f) Policy CS25: Presumption in Favour of Sustainable Development

Borough of Charnwood Local Plan 1991 to 2006 (adopted January 2004) Saved Policies

10. A number of policies contained within the Borough of Charnwood Local Plan (2004) were saved in accordance with the transitional arrangements set out in Annex 1 to the NPPF. The following saved policies remain relevant to this proposal after the adoption of the Core Strategy:

- a) Policy EV/1: Design
- b) Policy TR/18: Parking Provision in New Developments

Rothley Parish Neighbourhood Plan (2020–2028)

- Policy RO1: Development within Rothley Limits to Development
- Policy RO3: Design Principles

National Policy

11. *National Planning Policy Framework (NPPF) – December 2023*

- The NPPF provides the Government's policies for the delivery of sustainable development through the planning system. Paragraph 11 states that plans and decisions should apply a presumption in favour of sustainable development.
- Paragraph 96 (a) & (b) of the NPPF states that planning policies and decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which:
 - a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;
 - b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of beautiful, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas;
- Paragraph 97 (b) & (e) state that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:
 - b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;
 - e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

Other Policy Considerations

12. The Charnwood Local Plan 2021 to 2037 is the emerging Local Plan for Charnwood Borough which will replace the current adopted Local Plan in the future, most likely in 2024. It sets out a strategy for growth which seeks to simultaneously safeguard the environment and build healthy communities in Charnwood Borough.
13. It was submitted to Government at the end of 2021 and is currently in the examination stage. Two blocks of hearing sessions have been held and at the end of the examination the Inspector will send a report to Charnwood Borough Council recommending whether or not the emerging Local Plan can be adopted. This stage has not happened yet, although due to the Charnwood Local Plan 2021 to 2037 having reached an advanced stage, significant weight can be attributed to the policies within.
14. The relevant emerging Local Plan policies are:
 - a) Policy DS1: Development Strategy
 - b) Policy DS2: Leicester and Leicestershire Unmet Needs
 - c) Policy LUA1: Leicester Urban Area
 - d) Policy H1: Housing Mix
 - e) Policy H3: Internal Space Standards
 - f) Policy E1: Meeting Employment Needs
 - g) Policy T3: Car Parking Standards
 - h) Policy CC5: Sustainable Transport
 - i) Appendix 4: Design Guidance
15. The hearings for the Charnwood Local Plan have now closed, with the Planning Inspectorate highlighting key matters regarding the soundness of the Local Plan and how these can be addressed through Main Modifications.
16. Charnwood Borough Council Children and Young People's Strategy 2019 to 2024 sets out the aims and objectives for the next three years in regard to the well-being and safety of children and young people within Charnwood borough.

Consultations

17. **Charnwood Borough Council (Planning)** – No objections.
18. **Charnwood Borough Council (Environmental Health Officer)** – No objections.
19. **Rothley Parish Council** – No comments received.
20. **Highways Authority** – The Local Highway Authority (LHA) considers that the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 115 of the National Planning Policy Framework (December 2023), subject to the imposition of appropriate planning conditions.
21. **Leicestershire Police (Designing Out Crime Team)** – No objections, some observations and recommendations are made regarding access, security and lighting to be in-line with the most-up-to-date building regulations and British Standards. Recommendation to consider CCTV and an alarm system prior to occupation due to the change of use and the children's personal safety, and that CCTV should include number plate recording and coverage of key vehicle and pedestrian access points to the site as well as entry points to the building.

Publicity and Representations

22. The application has been publicised by means of a site notice, posted on 7 May, press notice published in the Loughborough Echo, and neighbour notification letters sent to the nearest occupiers in accordance with the County Council's adopted Statement of Community Involvement.
23. Several letters of representation were received from 6 households within the statutory period, raising objections on the following grounds:
 - inappropriate location of the proposed development;
 - parking and highways issues;
 - activity and disturbance;
 - loss of privacy
 - concerns over safety and crime.
24. It should be noted that several representations include reference to negative impact on property value however, these are not material planning considerations and therefore cannot be considered in this report.
25. The issues raised are considered in the Assessment of Proposal section of this report.

Assessment of Proposal

Principle of Development

26. The proposal is for C2 Use Class at 149 Mountsorrel Lane in Rothley, this would require a change of use from the existing use as a dwellinghouse which falls within the C3 Use Class. The C2 Use Class is a distinct and separate use class from the C2a Use Class. C2a comprises secure residential institutions, such as prisons, young offenders' institutions and secure hospitals. As such, if the proposed application is permitted, a separate express grant of planning permission from the planning authority would be required to convert the premises to C2a use.
27. This planning application for change of use seeks approval for a residential institution not a secure institution.
28. The planning application proposes to use the premises as a residential institution and is located in a residential setting which is an appropriate location for a use of this type. Whilst the principle of a residential institution use within a residential area is accepted, it is necessary to consider the aspects of the proposed use which could function differently to a dwellinghouse and may have the potential to adversely affect the amenity of the area.

Planning Policy Assessment

29. The NPPF requires Local Planning Authority decisions to ensure sustainable development. The proposal would provide a facility for the people of Leicestershire, reflecting current and future social needs. It would therefore support the local community's health, social and cultural well-being, and in this regard, the proposal adheres to paragraph 8b of the NPPF.
30. NPPF paragraph 96a requires that development should promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other through mixed use development (among other things). The proposed change of use would enable opportunities for children in care to integrate with their community in line with paragraph 96a. This integration would also be supported by paragraph 97e by ensuring an integrated approach to the location of community services.
31. Paragraph 97b requires that planning decisions take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections on the community. In this regard Charnwood Borough Council's Children and Young People's Strategy 2019 to 2024 is relevant as this seeks to ensure children and young people in Charnwood are safe and living in families where they can achieve their full potential, and the Charnwood Local Plan 2011 to 2028 Core Strategy refers in the Strategic Objectives (SO2) to "secur(ing) the provision of

accessible facilities and services to meet the needs of all local people, having regard to the particular needs of the young, old and “hard to reach”.

32. Leicestershire County Council’s Strategic Plan (2022 to 2026) and LCC’s Children and Family Services Departmental Plan (2024 to 2026) share the vision to help every child to get the best possible start in life and the Departmental Plan has a clear ambition to help children in Leicestershire to live in safe, stable environments and have secure attachments. The provision of high-quality placements for children in Leicestershire therefore would align with Charnwood Borough Council’s Children and Young People’s Strategy, the Charnwood Local Plan, LCC’s Children and Family Services Departmental Plan, LCC’s Strategic Plan and therefore accords with Paragraph 97b of the NPPF.
33. In the Charnwood Local Plan 2011 to 2028 Core Strategy (adopted November 2015) Rothley is identified as a ‘Service Centre’, this indicates a good range of services and facilities and good transport links providing for the daily needs of people living there as well as supporting nearby communities. In the emerging Charnwood Local Plan 2021 to 2037 Rothley is identified as part of the Leicester Urban Area with the centre identified as a District Centre, recognising the sustainable location and evolving role Rothley is to take in accommodating new development.
34. The proposal, if permitted, would result in the loss of a single dwelling house. However, it would be replaced by an alternative form of residential provision. This is not considered significantly detrimental in the context of local or strategic housing supply. Charnwood Borough Council has not raised an objection to the loss of one dwelling.

Traffic, Access and Parking

35. Local residents have raised concerns about the level of traffic and parking that may be generated by the proposal.
36. The proposal, if permitted, would provide a home for two children, or occasionally three, with adult care givers providing support. There would also be further care giving adults visiting on a less frequent basis. In totality, and in terms of timing, it is unlikely that the vehicle movements would be any different to that of a family home.
37. The Local Highway Authority have advised that in its view the impacts of the development on highway safety would not be unacceptable and when considered cumulatively with other developments, the impacts on the road network would not be severe.
38. The application states that three parking spaces are available to the front of the property on an off-road driveway, and this was confirmed from the officers’ site

visit. There is only a single point of access to the driveway, which would likely result in vehicles reversing when exiting the site. However, the LHA do not consider this to be a significant safety concern and have not requested that the access is amended. The level of parking provision meets both the requirements of Policy TR/18 from the Saved Policies of the Borough of Charnwood Local Plan which would require three parking spaces and Policy T3 of the emerging Charnwood Local Plan which refers to LCC's Highway Design Guide which includes advice on parking standards.

39. Given the existing residential use and existing parking provision of the property, as well as the anticipated levels in comings and goings associated with the proposed use and its location within a residential area, the likely vehicle movements and three existing on-site parking spaces are considered acceptable.

Sustainable Transport

40. The application site is in a highly sustainable location, within walking distance of Rothley Railway Station and close to bus services which would enable staff, visitors and residents (older children) to have a choice of sustainable transport.

Activity and Disturbance

41. Local residents have raised concerns about the level of noise and disturbance that may arise from the proposal.
42. The proposed use would have the potential to create activity and noise typically associated with a normal residential use. It cannot be assumed that the residents, in particular the children, living at this property would create more noise than if the property were occupied as a dwelling by a family. The planning system cannot control the noise that may be created by specific residents who may live at the property. A refusal on this basis could therefore not be justified. Any noise problems would be dealt with under Environmental Health legislation in the same way as any noise issues in a residential area.
43. Charnwood Borough Council's Environmental Health Officer has raised no objections to the planning application for change of use to a children's home.

Crime and Fear of Crime

44. Local residents have raised concern about the potential for increased nuisance and crime.
45. In assessing the potential for increased public nuisance and crime the existing use must be taken into consideration. The fear of crime should only be considered a material planning consideration in cases where evidence exists that the associated

development would likely increase crime. No evidence submitted as part of this application indicates that crime might increase if the application were permitted.

46. The measures suggested by Leicestershire Police's Designing Out Crime Team are equally applicable to improving the security of dwellings.
47. The recommendation to consider CCTV prior to occupation cannot be followed through due to the need to protect the privacy of the children and to adhere to Ofsted's strict control on such matters. It cannot be assumed that children living in care would be more likely to behave antisocially or create levels of noise over and above children living in a 'traditional' family unit. Other measures have been suggested by Leicestershire Police Designing Out Crime team, and these will be included as an informative for the applicant to consider.
48. For the reasons detailed above the proposal is not considered to conflict with the requirements of the NPPF with regard to safe places, especially Paragraph 8b, 96b and 135f and therefore would not be unacceptable on fear of crime grounds.
49. It is important to note that if matters of poor management or behaviour were to occur as a result of the change of use to a children's home these would be a matter for the relevant regulatory bodies.

Residential Amenity

50. Local residents have raised concerns about the potential loss of privacy. No external alterations, extensions or new windows are proposed to the property and as such, there would not be any additional overlooking or loss of privacy as a result of the proposal.

Socio-Economic Impact

51. There would be two members of staff on-site at the children's home at night and one member of staff during the day, when the children (if under 16 years of age) will be at school during term time. This is expected to create 4 to 6 full time equivalent posts.
52. The creation of local jobs, both directly in care provision and also through other support staff roles would contribute towards meeting employment needs in accordance with Policy CS6 of the adopted Charnwood Local Plan and Policy E1 of the emerging Charnwood Local Plan.

Biodiversity Net Gain (BNG)

53. From 12 February 2024, it is mandatory for all new development to achieve a minimum biodiversity net gain (BNG) of 10%. However, Planning Practice Guidance (PPG) sets out the threshold below which, development would be

exempt from this requirement. PPG states that if a development does not impact a priority habitat and impacts less than:

- 25 square metres (5m by 5m) of on-site habitat
- 5 metres of on-site linear habitats such as hedgerows

Then it is exempt from the BNG rules.

54. The property has been recently renovated, prior to the submission of the planning application, with landscaping works creating a new lawn and patio area to the rear. No extensions or alterations are proposed that would impact habitat on site, and the level of activity would be similar to that of standard residential occupation. As such, the development will impact less than 25m² of on-site habitat and therefore meets the exemption requirements set out above.

Conclusion

55. A children's home is a type of residential use which is appropriate in a residential area. As such, the principle of the proposed change of use of 149 Mountsorrel Lane, Rothley is acceptable and in line with the relevant policies in the development plan.
56. The proposed children's home would be of a relatively small scale, housing two children, occasionally three children, and adult care givers, and is unlikely to result in an amenity or highway issue above those potentially occurring from both the existing use of the site as a family home and the surrounding residential area.

Statement of Positive and Proactive Engagement

57. In determining this application, the County Planning Authority has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies, all material considerations, consultation responses and all valid representations received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

Recommendation

58. PERMIT subject to the conditions set out in Appendix A.

Officer to Contact

Rob Tollyfield (Tel: 0116 305 2733)

E-Mail planningcontrol@leics.gov.uk

Conditions

1. The development hereby permitted shall be begun within 3 years from the date of this permission.

Reason: To comply with the requirements of Section 91 (as amended) of the Town and Country Planning Act 1990.

2. Unless otherwise required pursuant to conditions of this permission, the development hereby permitted shall be carried out in accordance with the submitted application, documents and recommendations of reports, and the following plans:

- Drawing titled 'Location Plans' dated 18/04/2024
- Drawing titled 'Proposed Floor Plans' dated 18/04/2024
- Drawing titled 'Landscape as existing and proposed' dated 18/04/2024
- Drawing titled 'Parking provision' dated 18/04/2024

Reason: For the avoidance of doubt as to the development that is permitted.

3. No more than three children shall be resident at the site at any time.

Reason: For the avoidance of doubt as to the development that is permitted

4. The development hereby permitted shall not be occupied until such time as the access arrangements and parking provision has been implemented in accordance with submitted drawing titled 'Parking provision', dated 18/04/2024. Thereafter the onsite parking provision shall be kept available for such use in perpetuity.

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 in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).

Notes to the Applicant

1. The consent of Severn Trent Water will be required for either a direct or indirect connection to the public sewerage system under the provisions of Section 106 of the Water Industries Act 1991. Current guidance notes and an application form can be found at www.stwater.co.uk or by contacting Severn Trent Water New Connections Team (01332 683369).
2. Although statutory sewer records do not show any public sewers within the site there may be sewers which have recently been adopted under the Transfer of Sewer Regulations. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and it is advised that Severn Trent Water should be contacted (0247 771 6843).
3. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.
4. The existing boundary hedge/tree line directly bordering the development is the responsibility of the current owner/occupier of the land. On the assumption that this boundary is to be retained it should be made clear to all new property owners that they are responsible for the maintenance of that boundary, including the hedge/tree line ensuring that it is cut back so as not to interfere with the public highway (whether or not a fence is installed in front of it).
5. Leicestershire Police Designing Out Crime Team, in their planning consultation response, have made the following recommendations in regard to crime prevention and safety for the applicant to consider.
 - Door sets will be to PAS 24 (2016), which is now included in building regulations for doors and windows.
 - BS 6375 Security Locking and Fire Security and BS EN 50486 in relation to Audio and Video door entry systems. Consideration should be made to identify the most appropriate option for this site. Dwellings are recommended to have an Alarm System to BS7958, but there are other options on the Secured by Design portal which include BS6799 in relation to wire free alarm systems. Also, BS EN 50131 and PD 6662 in relation to wired systems.
 - Consideration of Secured by Design accreditation as a deterrent to potential offenders and to provide effective security for residents.
 - Street lighting columns to BS 5489 are recommended.

- Appropriate fencing should be used to enclose the perimeter and is recommended to be 1.8m in height. This can be via planting or manufactured fencing.
- Key access points leading into the development should be considered for CCTV coverage supported by lighting to allow identification during day and night. This would allow vehicle and facial recognition in key areas. Appropriate signage should be in place to be compliant with the Data Protection Act.
- Lampposts at vehicle entry points recommended to have electrical spur to allow power supply for CCTV. (Section 38 Agreement Recommended)
- Natural surveillance should be possible via ground level foliage being trimmed to 1m high and trees to have no foliage lower than 2m from the ground to allow a clear field of vision.
- Vehicular parking is recommended to be in curtilage as part of the dwellings where possible. Communal parking should be supported by natural observation, lighting and be set in clearly defined areas to deter unauthorised access.
- Consideration of Secured by Design principles is recommended and information in respect to the different standards is available on request.

DEVELOPMENT CONTROL AND REGULATORY BOARD

The considerations set out below apply to all the preceding applications.

EQUALITY AND HUMAN RIGHTS IMPLICATIONS

Unless otherwise stated in the report there are no discernible equality and human rights implications.

IMPLICATIONS FOR DISABLED PERSONS

On all educational proposals the Director of Children and Family Services and the Director of Corporate Resources will be informed as follows:

Note to Applicant Department

Your attention is drawn to the provisions of the Chronically Sick and Disabled Person's Act 1970 and the Design Note 18 "Access for the Disabled People to Educational Buildings" 1984 and to the Equality Act 2010. You are advised to contact the Equalities function of the County Council's Policy and Partnerships Team if you require further advice on this aspect of the proposal.

COMMUNITY SAFETY IMPLICATIONS

Section 17 of the Crime and Disorder Act 1998 places a very broad duty on all local authorities 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all reasonably can to prevent, crime and disorder in its area'. Unless otherwise stated in the report, there are no discernible implications for crime reduction or community safety.

BACKGROUND PAPERS

Unless otherwise stated in the report the background papers used in the preparation of this report are available on the relevant planning application files.

SECTION 38(6) OF PLANNING AND COMPULSORY PURCHASE ACT 2004

Members are reminded that Section 38(6) of the 2004 Act requires that:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Any relevant provisions of the development plan (i.e. any approved Local Plans) are identified in the individual reports.

The circumstances in which the Board is required to “have regard” to the development plan are given in the Town and Country Planning Act 1990:

- Section 70(2) : determination of applications;
- Section 77(4) : called-in applications (applying s. 70);
- Section 79(4) : planning appeals (applying s. 70);
- Section 81(3) : provisions relating to compensation directions by Secretary of State (this section is repealed by the Planning and Compensation Act 1991);
- Section 91(2) : power to vary period in statutory condition requiring development to be begun;
- Section 92(6) : power to vary applicable period for outline planning permission;
- Section 97(2) : revocation or modification of planning permission;
- Section 102(1) : discontinuance orders;
- Section 172(1) : enforcement notices;
- Section 177(2) : Secretary of State’s power to grant planning permission on enforcement appeal;
- Section 226(2) : compulsory acquisition of land for planning purposes;
- Section 294(3) : special enforcement notices in relation to Crown land;
- Sched. 9 para (1): minerals discontinuance orders.