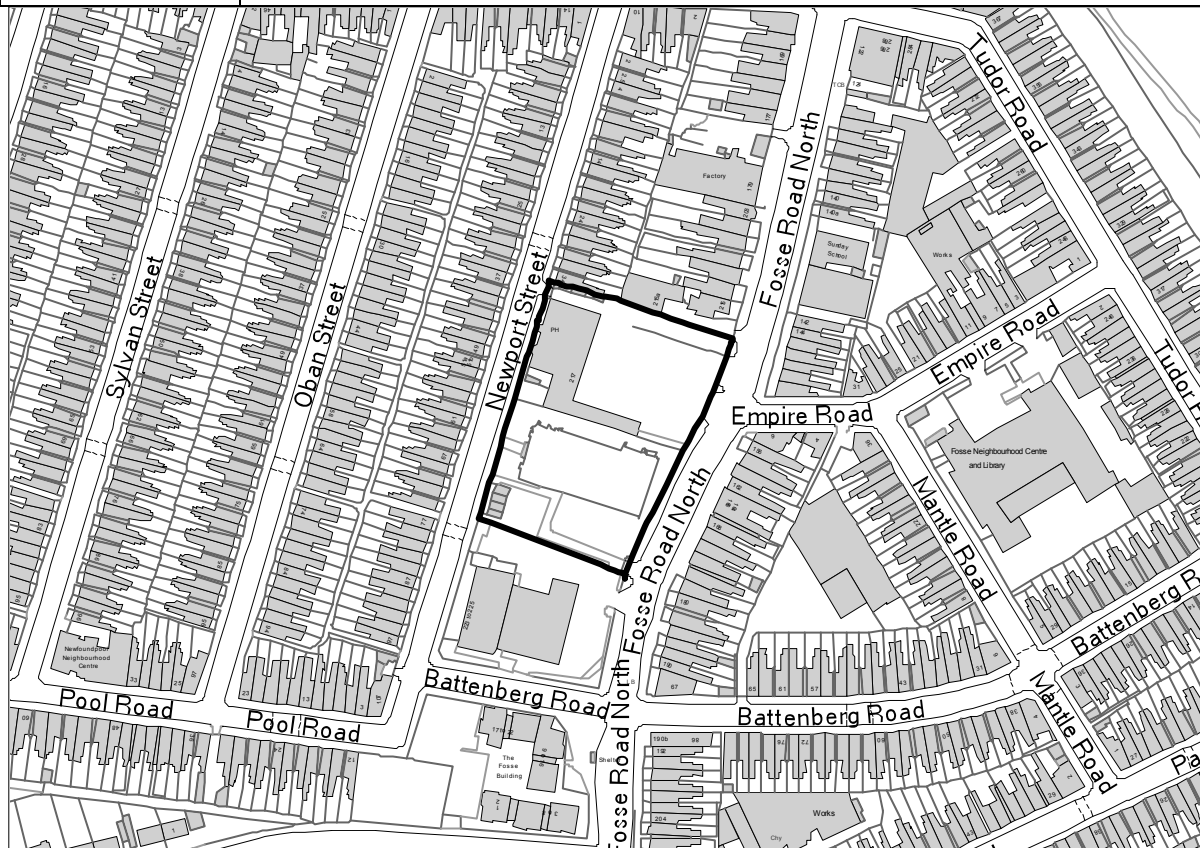


Recommendation: Conditional approval	
20140826	217-219 FOSSE ROAD NORTH, ST AUGUSTINE CHURCH & EMPIRE PH
Proposal:	DEMOLITION OF EXISTING BUILDINGS AND REMOVAL OF TPO TREES. FOODSTORE (CLASS A1) WITH ASSOCIATED CAR PARKING, HIGHWAY WORKS AND LANDSCAPING
Applicant:	LIDL UK GmbH
App type:	Operational development - full application
Status:	Smallscale Major Development
Expiry Date:	4 September 2014
AP	WARD: Fosse



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Summary

- To be considered by the Committee because of the number of objections.
- Conservation Advisory Panel object to loss of the Empire PH.
- 158 objections and 68 representations in favour.
- The main issues are the heritage impact, regeneration of the site, highways impact, principle of the use, design, trees and ecology

Introduction

The site is located on the west side of Fosse Road North and also has a frontage to Newport Street. It is made up of two sites St Augustine's Church (which was badly damaged in a fire some years ago and the former Empire Pub and its associated car park. Vehicular access is from Fosse Road North. Pedestrian access can be gained from Fosse Road North and Newport Street.

Both the church and the former Empire Pub are on the List of Local Buildings of Interest. The sycamore tree to the Newport Street side, the three lime trees and the group of trees to the Fosse Road frontage on the church site are covered by a tree preservation order (TPO).

The church and former pub site are both on land shown as residential in the City of Leicester Local Plan. There are existing small local shopping centres to the south, east and north of the site on Fosse Road North and a larger local centre at the junction of Fosse Road North, Groby Road, Woodgate and Blackbird Road.

The site is not in a flood zone but is in a critical drainage area.

Background

St Augustine's Church site

Planning consent was granted in May 2007 (20060952) for one three storey block of 12 flats facing Newport Street; one four storey block of 12 flats facing Fosse Road North with offices on the ground floor.

Former Empire Pub site

Planning consent was granted May 2006 (20060615) for use of part of car park to provide seven 3-storey houses .

Planning consent was granted April 2011 (20100708) for single and two storey extension to north elevation, single storey extension to east elevation, single storey extension to west elevation,.

Planning consent was granted July 2012 (20120263) for change of use and extension of ground floor from public house to retail uses within either Class A1, A2, A3, A4 or A5, extension of first floor to provide self-contained flat and change of use to apartment hotel.

The Proposal

The application includes demolition of the existing buildings on the two sites and removal of all the TPO trees. A new food store is proposed using both sites with associated car parking to the Fosse Road North side, highway works, including a right hand lane, and landscaping.

The application is accompanied by a:

Design and Access Statement
Planning and Retail Assessment
ULAS Heritage Statement
Transport Assessment
Arboricultural Impact Assessment
Ecological Appraisal
Bat Survey Report
Sustainable Energy Statement

Policy Considerations

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

Supplementary documents:

Vehicle Parking Standards SPG
Energy Efficiency and Renewable Energy SPD
Climate Change SPD

National policy

National Planning Policy Framework (NPPF)
Paragraphs 24 and 27 – retail
Paragraphs 12, 128 – 138 and 140 – conserving and enhancing the historic environment
Paragraphs 9 and 118 - ecology

Consultations

Trees and Woodlands – object to the proposal as all existing trees are proposed to be removed and the replacement planting of three small trees is not an acceptable level of replacement. Compensation for loss of trees would be two trees for each lost to be planted at Fosse Road Recreation Ground.

Energy Team – details submitted acceptable subject to condition.

Severn Trent Water – no objection subject to a condition relating to drainage.

Environmental Services (Noise) – no objection subject to conditions

Highway Authority – no objections subject to conditions.

Representations

Conservation Advisory Panel – object to the proposal. They accept the loss of the remains of St Augustine's Church but strongly object to the loss of the former Empire Pub and did not feel that the benefits of a Lidl store outweigh the loss of a heritage asset. The Panel discussed a compromise of constructing a Lidl within the site that either retained or incorporated the former Empire.

158 objections have been received. The grounds of objection are:

- Loss of the former Empire Hotel a locally listed building
- Building should be reused or incorporated into development
- Additional traffic and impact on Fosse Road North
- Loss of trees
- Do not need another supermarket in this area
- Anti social behaviour from sale of alcohol
- Site better developed for residential
- Applicants consultation exercise inadequate

68 representations in favour of the proposal have been received stating;

- Site is an eyesore and blight on the local area with vandalism, rubbish and graffiti
- Site used for anti social behaviour
- Welcome more shopping choice in area
- Proposal will benefit community
- Proposal will provide new jobs in the area
- Work has been carried out on Empire Pub building which is unsympathetic and done little to enhance the site
- Church is dangerous

A submission has also been received from Liz Kendall MP which summarises a neighbourhood survey carried out by herself and Councillors Waddington and Cassidy. A summary of overall comments made is included which states:

Positive for proposal

Eyesore/improve appearance – 40
Cheaper shopping – 16
Better shopping choice – 11
Create jobs – 7

Negative against proposal

Too many supermarkets – 15
Ruin heritage – 8
Needs clearing but not Lidl – 6
Increased traffic – 9
Ruin local businesses - 2

Consideration

Principle of development

The site is located on the edge of two existing local shopping centres on Fosse Road North. The applicant has submitted a retail sequential assessment and its findings

are accepted that there are no other suitable or available sites for this proposal within defined shopping centres this area of the city.

The application therefore satisfies the requirements of the NPPF and Core Strategy policy CS11 on retail hierarchy.

Highway Impact and parking

The principle of a retail store at this location is acceptable in highway terms subject to conditions relating to provision of sight lines, pedestrian crossings, cycle parking, marking out of the car park including disabled spaces and an s278 agreements under the Highways Act for the works to Fosse Road North at the proposed junction into the site.

The number of parking spaces proposed is acceptable.

There is some concern that the road width is a little tight for the right turn lane proposed. It is therefore expected that vehicles turning into the store will occasionally block the road and reduce through capacity particularly during the evening peak; however such a situation is common with right turn movements.

Heritage impact

The Empire Hotel is a public house, which was developed alongside the terraced streets of Newfoundpool in the late 1880's. The building does however have remains of a previous building that was known as 'Newfoundpool House', which was developed in the 1830's by an Isaac Harrison, who tried and failed to develop the site as a Health spa establishment, following the discovery of a natural spring that was believed to have medicinal properties.

The east elevation facing Newport Street with the pedimented gable is an important local landmark and forms an end to views along Empire Road. The building itself dictated the street layouts and pattern of development, with the west façade forming an important end stop to the repetitive terrace townscape on Newport Street with the decorated façade stressing the local importance and status of this building. The buildings inclusion in the local list reflects its associations with the development of the area rather than simply its architectural merits.

As such, when considering planning applications that affect the building, either alterations or in this case demolition, the planning department follow the planning policies as set out the NPPF 2012, in particular paragraph 135, which reads:

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

The applicants have provided a heritage statement which addresses the historic and architectural interest but does not address its townscape contributions. However the statement provided clearly outlines the local historic significance of the building.

Applicants are advised to describe the significance of the heritage asset affected by development with a level of detail proportionate to the assets importance. The applicant commissioned ULAS to produce a heritage assessment in relation to the former Empire pub.

The assessment states that the building is not of a quality to warrant statutory listing, it has surviving components but also has a large number of later additions and modifications. The east range of the building is the oldest part of the building but only the shell remains from the institute period or from the original private house. The 'new' 1888 range was 'tacked on' but paid little heed to earlier architectural styles.

The applicant has within the D and A statement examined placing the store elsewhere on the site. No justification has been given however for why the building could not be reused either by Lidl or by another operator. Information in the submission shows how the site owner has part implemented the 2012 consent but did not gain enough interest in the development to proceed further and complete it.

Marketing of site with previous retail led mixed use permission and for operators other than Lidl was carried out over a lengthy period of time by local agents. The owner was unable to secure sufficient interest to enable that development to proceed.

The proposal will mean the loss of two buildings on the local list. The loss of St Augustine's Church has been accepted before with a planning approval granted in 2007 to redevelop the site for residential and offices. The church was subject to a fire and is now in a derelict and dangerous state. I consider its loss although regrettable acceptable.

The former Empire Pub has been empty for a number of years and is currently in a poor state of repair with the site often used for fly tipping and the building boarded up and used for graffiti.

The proposal will provide wider benefits for the area with the development providing retail choice, provision of jobs and overall regeneration of this site.

Site layout and Design

The site layout is similar to that existing with the store being to the rear of the site adjacent to Newport Street and the car park fronting Fosse Road North. I consider it acceptable that the car park and vehicular access remain off Fosse Road North as this keeps them away from the residential properties on Newport Street. The service access is also off Fosse Road North and is to the south side of the building adjacent to the neighbouring Tesco petrol station.

The applicant has amended the building design since the original submission adding additional glazing to the main frontage to Fosse Road North in particular. Further discussions are taking place regarding the design in particular the form and weight of the cladding and roof structure. I will report further on this matter orally.

Sustainable Urban Drainage

A scheme has been put forward for consideration and discussions are continuing on the details of the proposal. I will report further on this matter orally.

Ecology

The ecology report found no evidence of bats roosting within the Empire public house or within the semi-derelict churchyard. The site does, however, provide some provision for foraging bats and nesting birds which are protected by EU/UK wildlife legislation.

These areas are also likely to support wildlife such as small mammals, invertebrates, hedgehogs associated with urban habitats. As this habitat is to be lost it will be necessary to ensure that adequate mitigation is provided and compensation for the loss of a green site. This is necessary to ensure the development complies with national and local planning policy.

Landscaping and Loss of TPO trees

Although the loss of the TPO trees on the church site is regrettable I consider it acceptable subject to suitable compensation in a nearby amenity area. I consider that replacement trees planted in the Fosse Road Recreation Ground to the north of the site can provide suitable compensation and mitigation. It is normally requested when trees are lost that two trees are planted as replacements therefore I have conditioned this provision with the condition being able to be satisfied with the payment of £10,800 to provide the required number of trees and cover their maintenance for a standard period of three years.

The principle of the loss of some of the TPO trees was approved previously in May 2007 when consent was granted for one three storey block of flats facing Newport Street and one four storey block of flats facing Fosse Road North with offices on the ground floor.

The overall proposed landscaping scheme has been improved during the time of the application with the provision of additional landscaping, on-site trees and larger specimens. Native species are proposed including the lower level planting to encourage ecology.

Renewable Energy

The details submitted with the application for the provision of on-site air source heat pumps are acceptable and are predicted to provide the required 18% target for 2014. A condition is proposed to ensure the provision in accordance with the submitted details.

Conclusion

Although the loss of the locally listed former Empire pub and TPO trees are regrettable the site owners have gained planning permission for several different

developments over a period of eight years including the former Empire building and none have successfully come forward.

The site of the church has previously been given consent for redevelopment and the church is now derelict and in a dangerous condition. The former Empire pub site is now considered by many to be an eyesore and its redevelopment and regeneration is considered a benefit to the local area and the provision of new jobs much needed.

I consider on balance that the proposal is acceptable and recommend APPROVAL subject to the following conditions:

CONDITIONS

1. START WITHIN THREE YEARS
2. Before any works are undertaken in relation to the demolition a full recording survey shall be undertaken of the former Empire Public House in line with a level 2 record as defined in Understanding Historic Buildings; a guide to good recording practice (English Heritage 2006). The survey shall be submitted to the City Council as local planning authority for approval and then sent to the records office for archiving. (In the interests of the historic environment and in accordance with Core Strategy policy CS18)
3. Before the development is begun, the materials to be used for all external treatments shall be submitted to and approved by the City Council as local planning authority. (In the interests of visual amenity, and in accordance with Core Strategy policy CS3.)
4. LANDSCAPING TO BE CARRIED OUT
5. SIGHT LINES TO ACCESS
6. All street works and footway crossings shall be constructed in accordance with the Council's standards contained in the `6Cs Design Guide` (view from www.leicester.gov.uk/6cs-design-guide). (To achieve a satisfactory form of development, and in accordance with policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS3.)
7. PEDESTRIAN CROSSING POINTS
8. REINSTATE REDUNDANT FOOTWAY CROSSINGS/FOOTWAY
9. No part of the development shall be occupied until secure and covered cycle parking has been provided and retained thereafter, in accordance with written details previously approved by City Council as local planning authority. (In the interests of the satisfactory development of the site and in accordance with policies AM02 of the City of Leicester Local Plan).
10. No part of the development shall be occupied until secure motor cycle parking has been provided and retained thereafter, in accordance with written details

previously approved by City Council as local planning authority. (In the interests of the satisfactory development of the site and in accordance with policies AM02 of the City of Leicester Local Plan).

11. TRAVEL PLAN - DETAILS REQUIRED
12. No part of the development shall be occupied until the following works have been carried out in accordance with details submitted to and approved in advance by the City Council as local planning authority: (a) surfacing and marking out of all parking areas including parking spaces of 5.5m by 2.4m; (b) provision of loading/unloading areas; (c) provision of turning space. The parking, loading/unloading areas and turning space shall not be used for any other purpose. (In the interests in highway safety, and in accordance with policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS3.)
13. At least 4 car parking spaces for the use of disabled people shall be provided before the development is occupied in accordance with guidance in the Leicester City Council and Leicestershire County Council document `6Cs Design Guide` and shall be retained and kept available for use by disabled people. (To ensure adequate provision for the needs of disabled people, and in accordance with policy AM11 of the City of Leicester Local Plan and Core Strategy policy CS3.)
14. BRITISH STANDARD FOR TREE WORK
15. The use shall not be carried on outside the hours of 0730 to 2300 hours daily. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
16. No deliveries or collections (including collection of refuse) shall take place outside the hours of 0700 - 2200 hours Monday to Saturday and 0900 - 1700 Sundays and recognised public holidays. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan)
17. No construction or demolition work, other than unforeseen emergency work, shall be undertaken outside the hours of 0730 to 1800 hours Mondays to Friday, 0730 to 1300 Saturdays, nor at any time on Sundays or officially recognised public holidays unless the methodology has been submitted to the City Council Noise Team. The methodology must be submitted at least 10 working days before such work commences and agreed, in writing with the City Council. The Noise Team shall be notified of any unforeseen emergency work as soon as practicable after the necessity of such work has been decided by the developer or by anyone undertaking the work for the developer. (In the interests of the amenities of nearby occupiers, and in accordance with policy PS10 of the City of Leicester Local Plan.)
18. Any plant/machinery shall be installed, operated and maintained to the satisfaction of the City Council as local planning authority. No noise or vibration from the operation of the plant/machinery shall be perceptible in any

- nearby residential property. (In the interests of the amenities of nearby occupiers, and in accordance with policies PS10 and PS11 of the City of Leicester Local Plan.)
19. No part of the development shall be occupied until surface water drainage works and surface water quality improvements have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall: (i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; (ii) include a timetable for its implementation; and (iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. (To reduce the risk of flooding and in accordance with policy BE20 of the City of Leicester Local Plan and Core Strategy policy CS02)
 20. No part of the development shall be occupied until details of arrangements for storage of bins and collection of waste have been submitted to and approved by the City Council as local planning authority. These arrangements shall be maintained thereafter. (In the interests of the amenities of the surrounding area, and in accordance with policies UD06 and PS10 of the City of Leicester Local Plan and Core Strategy policy CS3.)
 21. No part of the development shall be occupied until on-site installations of the proposed air source heat pumps to provide 20,816kW/annum to meet the Local Plan target of 18% of renewable energy of the total predicted energy demand for the site have been carried out in accordance with the approved details submitted with the application. No part of the development shall be occupied until evidence demonstrating satisfactory operation of the approved scheme including on-site installation has been submitted to and approved in writing by the City Council. (In the interests of securing energy efficiency in accordance with Policy CS2 of the Core Strategy and policy BE16 of the City of Leicester Local Plan).
 22. In the first planting season following the removal of each tree, two replacement trees shall be planted. The replacement trees shall be planted at Fosse Road Recreation Ground unless an alternative scheme has first been submitted to and approved by the City Council as local planning authority. All replacement trees shall be maintained for a minimum period of five years following planting. Any tree that dies, becomes seriously damaged or is removed shall be replaced by another of the same specification at the same place in the first available planting season. (In the interests of the amenity of the area, and in accordance with policy UD06 of the City of Leicester Local Plan and Core Strategy policy CS3.)

23. No more than 20% of the net tradable area shall be used for the sale of comparison goods. (To protect existing retail centres and in accordance with Core Strategy policy CS11)

PLANS AS AMENDED (PLAN NO; RECEIVED ON)

NOTES FOR APPLICANT

1. With regard to conditions 5, 6, 7 and 8 above, works within the highway will be involved. Prior to the commencement of such works, the applicant and/or developer will need to contact the City Council (telephone (0116) 454 1000) for written approval of construction and contractor details.
2. Highway works in connection with the development will be carried out under a s278 Highways Act agreement. Please contact Michael Jeeves on 0116 4542846.
3. It is unlikely that any construction or demolition work will be agreed outside of the hours detailed in condition 17 unless the City Council's Noise Team is satisfied that: a) the work will not be detrimental to occupiers of neighbouring properties; or b) the developer is able to demonstrate that there is no practicable alternative to the proposed work taking place outside these hours.
4. Condition 21 assumes an estimated net total annual operational energy demand of 114,383 kWh/yr. The agreed scheme will need to operate to a satisfactory performance in terms of a renewable energy actual percentage of actual consumption, which shall be confirmed at the time of condition discharge.
5. Condition 22 can be satisfied by a payment of £10,800 to the Council's Director of Planning, Transportation & Economic Development to secure the works described in the condition.

Policies relating to this recommendation

- 2006_AM01 Planning permission will only be granted where the needs of pedestrians and people with disabilities are incorporated into the design and routes are as direct as possible to key destinations.
- 2006_AM02 Planning permission will only be granted where the needs of cyclists have been incorporated into the design and new or improved cycling routes should link directly and safely to key destinations.
- 2006_AM05 Planning permission for large scale development will not be granted unless provision is made for access to and for bus routes.
- 2006_AM11 Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01.
- 2006_BE10 In developments involving a new shopfront, the design should be an integral part of the whole building and should be in proportion to the lines of the facade of which it forms a part.
- 2006_BE16 Planning permission will be granted for the development of renewable energy installations where local impacts are not outweighed by wider benefits. Major

- developments must realise their potential for incorporating renewable energy technologies.
- 2006_PS10 Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents.
- 2006_PS11 Control over proposals which have the potential to pollute, and over proposals which are sensitive to pollution near existing polluting uses; support for alternative fuels etc.
- 2006_R03 Retail development outside the Central Shopping Core will be confined to the existing and proposed shopping centres.
- 2006_UD06 New development should not impinge upon landscape features that have amenity value whether they are within or outside the site unless it can meet criteria.
- 2010_CS01 The overall objective of the Core Strategy is to ensure that Leicester develops as a sustainable city, with an improved quality of life for all its citizens. The policy includes guidelines for the location of housing and other development.
- 2010_CS02 Development must mitigate and adapt to climate change and reduce greenhouse gas emissions. The policy sets out principles which provide the climate change policy context for the City.
- 2010_CS03 The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'.
- 2010_CS08 Neighbourhoods should be sustainable places that people choose to live and work in and where everyday facilities are available to local people. The policy sets out requirements for various neighbourhood areas in the City.
- 2010_CS11 The Council supports a hierarchy of retail centres in Leicester. The policy sets out measures to protect and enhance retail centres as the most sustainable location for retail development.
- 2010_CS14 The Council will seek to ensure that new development is easily accessible to all future users including by alternative means of travel to the car; and will aim to develop and maintain a Transport Network that will maximise accessibility, manage congestion and air quality, and accommodate the impacts of new development.
- 2010_CS17 The policy sets out measures to require new development to maintain, enhance and strengthen connections for wildlife, both within and beyond the identified biodiversity network.
- 2010_CS18 The Council will protect and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.
- 2010_CS19 New development must be supported by the required infrastructure at the appropriate stage. Developer contributions will be sought where needs arise as a result of the development either individually or collectively.

