

Delegated Report

Planning Ref: 23/01050/FUL
Applicant: FP McCann Ltd
Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: FP McCann Brascote Lane Cadeby Leicestershire *A Borough to be proud of*

Proposal: Proposed steel fabrication workshop

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

2. Planning Application Description

- 2.1. This application seeks full planning permission for the erection of a steel fabrication workshop.
- 2.2. The proposed workshop would be 7.86m in height (6.4m eaves), 60m in length, 15m in width. The total footprint of the building would be 900m². The proposed building would be constructed using precast concrete modular components and profiled cladding.
- 2.3. The applicant has confirmed that the proposed development would not require additional staff, nor will it result in any additional traffic movements for materials in/out of the site. Access is proposed via the existing internal access roads and the upgraded access point as approved through 22/00420/FUL.
- 2.4. The proposed development would be sited upon an existing hard-surfaced area on the southern boundary of the site, behind existing manufacturing sheds, alongside an existing storage yard. The proposed development will not result in any net loss of parking provision at the site.

3. Description of the Site and Surrounding Area

- 3.1. The application site lies in the countryside to the east of the rural hamlet of Cadeby, to the northeast of the A447 (Hinckley Road) and to the south east of Brascote Lane. The existing FP McCann pre-cast concrete production site has been established for over 30 years, taking the place of the former Cadeby quarry, and measures over 18 hectares in total.
- 3.2. The application site measures 0.2 hectares and is located along the southern boundary of the wider site. There is a mature hedgerow along the southern boundary with open countryside beyond. The rest of the site is surrounded by sheds and storage yards associated with the wider manufacturing operations. The site would be accessed via the existing point on Brascote Lane.
- 3.3. To the northeast of the site (400m) there are two dwellings and commercial operations at the Naneby Hall Farm complex. To the northwest of the site are a further two isolated dwellings. These are Rock Cottage (300m away, in the ownership of the applicant) and Freshfields which is located 350m northwest of the application site at the closest point.

- 3.4. A Public Right of Way (Footpath S65) runs 400m to the south, perpendicular to the A447.

4. Relevant Planning History

There is an extensive planning history at this site. The key relevant applications are listed below:

75/00986/4	Erection of building for the manufacture of concrete products	Permitted	15.12. 1975
83/00799/4	Manufacturing unit for concrete products	Permitted	08.12.1983
86/00345/4	Formation of new vehicular access, erection of administration reception block, erection of extensions to existing concrete products manufacturing unit and extension of area used for the stocking of concrete products	Permitted	21.07.1986
88//00144/4	Extension to existing manufacturing unit and erection of dry batching concrete plant	Permitted	09.05.1988
96/00808/FUL	Erection of factory unit	Permitted	13.11.1996
02/00359/FUL	Demolition of batching plant and factory, erection of two factory units, new batching plant and extension to storage yard	Permitted	18.07.2002
03/00519/FUL	Erection of factory unit and batching plant (revised scheme)	Permitted	26.06.2003
04/00152/FUL	Erection of office and canteen buildings	Permitted	14.07.2004
04/00584/FUL	Extensions to factory unit and raising ridge height of original factory	Permitted	06.07.2004
07/00094/FUL	Erection of new office building	Permitted	23.04.2007
07/00403/FUL	Erection of industrial building	Permitted	30.05.2007
14/00369/CONDIT	Removal of condition 4 of planning permission 12/00370/FUL for the extension to the production unit	Permitted	16.10.2014
16/01092/FUL	Extensions to manufacturing building, erection of concrete batching plant, formation of additional car parking areas, change of use of land to Class B2	Permitted	28.03.2017

(General Industry) for new product storage area including ancillary security and landscaping works and the permanent diversion of a public footpath.

17/00530/CONDIT	Variation of conditions 2, 11 and 16 of planning permission 16/01092/FUL to reposition one of the approved factory extensions and the approved concrete mixing plant.	Permitted	24.08.2017
19/00624/FUL	Extension to existing precast concrete production building	Permitted	23.09.2019
22/00420/FUL	Proposed erection of roof tile facility	Permitted	27.04.2023

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. No responses have been received as a result of public consultation.

Consultation

- 5.3. No objection, some subject to conditions, have been received from:-

Environment Agency
 Leicestershire County Council (Highways)
 Leicestershire County Council (Ecology)
 Leicestershire County Council (Minerals)
 Leicestershire County Council (Drainage)
 Environmental Health (Pollution)
 HBBC Drainage
 HBBC Waste
 Conservation Officer

Cadeby Parish Council: No comment.

6. Policy

- 6.1. Core Strategy (2009)
 - No directly relevant policies.
- 6.2. Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets

- Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
 - Policy DM19: Existing Employment Sites
 - Policy DM20: Provision of Employment Sites
- 6.3. Leicestershire Minerals and Waste Local Plan (2019)
- Policy M11: Safeguarding of Mineral Resources
- 6.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2023)
 - Planning Practice Guidance (PPG)
 - Planning (Listed Buildings and Conservation Areas) Act 1990
- 6.5. Other relevant guidance
- Cadeby Conservation Area Appraisal, Management Plan and Map (2007)
 - Employment Land and Premises Review (2020)
 - Leicestershire Highway Design Guide
 - Landscape Character Assessment (2017)
 - Landscape Sensitivity Assessment (2017)

7. Appraisal

7.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Flood Risk and Drainage
- Ecology and biodiversity
- Impact on Heritage Assets
- Minerals Safeguarding

Assessment against strategic planning policies

- 7.2. Paragraph 2 of the National Planning Policy Framework (NPPF) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.
- 7.3. The development plan in this instance consists of the adopted Core Strategy (2009), the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016) and Leicestershire Minerals and Waste Local Plan (2019).
- 7.4. The adopted Core Strategy provides an over-arching long-term vision for the Borough but does not contain any policies that are directly relevant to the proposal. It does however include spatial objectives that seek to strengthen and diversify the

economy, support strong and vibrant rural communities and protection and enhancement of the natural environment and biodiversity.

- 7.5. Policy DM19 of the adopted SADMP and the Employment Land and Premises Review (2020) identifies the existing site as a category 'B' employment site where 100% employment use should be retained, and which has a rural location but with low prominence.
- 7.6. As the site is located in the countryside Policy DM4 of the adopted SADMP is applicable. Policy DM4 of the adopted SADMP seeks to protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development. However, the policy also states that development in the countryside will be considered sustainable where: it involves the change of use, re-use or extension of existing buildings which lead to an enhancement of the immediate setting; or, it significantly contributes to economic growth and job creation subject to there being no significant adverse impact on the character and appearance of the countryside.
- 7.7. Whilst the development is not strictly reusing or extending the existing buildings as per Policy DM4 criteria, it forms part of improvements to the existing facility by providing a standalone steel fabrication building. The site is an established and identified employment area within the Development Plan and whilst not creating additional jobs thus not contributing to significant economic growth and job creation it will provide for improved and enhanced facilities at this employment site and ultimately job retention. The site as a whole does provide a significant contribution to economic growth. Therefore whilst not strictly in accordance with any of the criteria within policy DM4, it is not judged to be unsustainable development in principle considering the site and application specific detail. The proposal is judged to meet the social and economic aims of sustainable development through the improvements to the existing facilities/business on site.
- 7.8. Furthermore the proposed development is acceptable in principle in accordance with Policy DM19 of the SADMP which seeks to safeguard employment sites.

Design and impact upon the character and appearance of the area

- 7.9. Policy DM4 requires that development proposals in the countryside do not have any significant adverse effects on the intrinsic value, beauty, open character and landscape character of the countryside. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, design and materials.
- 7.10. Hinckley and Bosworth Borough Council's Landscape Character Assessment (2017), defines the site as being located within the Bosworth Parkland Landscape Character Area C (LCA C). The key characteristics are defined as follows:
 - Rolling farmland and parkland with gentle slopes which rise and fall reaching a high point around the town of Market Bosworth;
 - Scattered trees, woodland and smaller fields of pasture around settlements add interest to the regular pattern of enclosure fields divided by low hawthorn hedges;
 - A rural and peaceful character with development limited to scattered farm buildings and historic settlements well-integrated into the landscape by vegetation and small scale of buildings;
 - Parkland of Bosworth Park with avenues and Bosworth Hall country estate;

- Recreation and tourism - Market Bosworth Country Park and a good network of public footpaths and routes popular with cyclists. Destinations include Market Bosworth, the Battlefield Visitor Centre, the Battlefield Line Railway and the Ashby Canal;
- Bosworth Battlefield has strong heritage associations;
- Historic villages of Cadeby and Sutton Cheney, with attractive red brick buildings and farm cottages, have a strong relationship with the surrounding agricultural landscape; and,
- Market Bosworth provides an important focus within the area and St Peter's church provides a key landmark.

- 7.11. The site at present contains several industrial buildings as part of the daily operation of the site. These are all large and utilitarian in terms of their design and establish a permanent visual context which is synonymous with this site. The proposed workshop would be amongst the smallest of this cluster of buildings and would be viewed within their immediate context from all possible vantage points. It has been designed in a similar utilitarian design and would be built of similar materials.
- 7.12. Wider visibility of the site is restricted by the localised presence of both mature woodland / vegetation together with the existing built form and boundary features of the existing FP McCann concrete manufacturing facility. Visibility is primarily restricted to immediate locations and from receptors located to the north and south (Brascote Lane and Footpaths S65 and S25). Views of the site are therefore either generally limited due to a combination of distance between the site and visual receptors, topography and a mature intervening vegetation. Closer views from Brascote Lane and Footpath S25 are in the context of the existing buildings and operations within the site.
- 7.13. The proposed workshop would become the southernmost building within the existing cluster of buildings in this section of the site. Whilst the proposed building would make an additional contribution to the visual prominence of the wider site due to its siting on the southern boundary of the site, it is not considered that there would be any unacceptable degree of visual harm cause. This is due to the surrounding context that the building would lie within, and the fact that the site location and visual receptors limit the visual impact of the proposal.
- 7.14. In terms of visual enhancement in respect of DM4, it is acknowledged that that the proposal would not achieve this as there is no additional landscaping proposed and the existing site has no built development apart from hardstanding.
- 7.15. Therefore, whilst it is considered that the proposed development would complement the existing appearance of the site and comply with Policies DM4 and DM10 in this regard, it would not result in an enhancement of the character of the surrounding area and there would therefore be some minor conflict with Policy DM4. This conflict is weighed in the planning balance later in this report.

Impact upon neighbouring residential amenity

- 7.16. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings including matters of lighting, air quality, noise,

vibration and visual intrusion. Policy DM7 of the adopted SADMP requires all reasonable steps to be taken to avoid light pollution, noise or vibrations of a level which would disturb areas valued for amenity and avoid poor air quality.

- 7.17. There are a number of isolated dwellings located around the application site, the closest being Naneby Hall Cottage. Freshfields Cottage is located closer to the site (approx. 200m north) but is in the ownership of the applicant. The site boundary is approximately 300m metres northwest of the southern boundary of Naneby Hall Cottage. Due to the distance separation and the well-established boundary treatments to boundaries of the Cottage, it is not considered that there would be any overbearing, loss of privacy, noise or disturbance impacts caused by the development.
- 7.18. Environmental Health (Pollution) raises no objection to the proposal, and this is accepted on the basis that there will be no increase in activity on the site. Conditions have been recommended regarding land contamination and a plant door locking mechanism, and these have been included in this recommendation. A further condition regarding construction hours was recommended, however given the existing operations on site, this was not considered necessary.
- 7.19. In summary, the proposal would not result in any significant adverse impacts on the amenities of the occupiers of any nearby properties and therefore the proposal would be in accordance with Policies DM7 and DM10 of the adopted SADMP.

Impact upon highway safety

- 7.20. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision. Policy DM3 of the adopted SADMP seeks the provision of improved infrastructure where necessary. Paragraph 110 of the NPPF states that a safe and suitable access to sites should be achieved and that development should only be refused on transport grounds where the residual cumulative impacts of development are severe.
- 7.21. The site is to be accessed via a private road which is a continuation of Brascote Lane and was approved via application 22/00420/FUL. The LHA advise that given it is stated the proposals would not result in an increase in staff numbers at the site, it has no objection to the continued use of the existing access arrangements, or the proposed development using the arrangements required by the LHA as part of application 22/00420/FUL.
- 7.22. The LHA advise that the proposal would not have a severe impact on the level of traffic using Brascote Lane or turning onto/ off Ashby Road, given the proposals would not result in additional staff being employed at the site. Lastly, the proposed development would not result in any net loss of parking provision at the site.
- 7.23. In summary, the proposal would therefore be in accordance with Policies DM17 and DM18 of the adopted SADMP.

Flood Risk and Drainage

- 7.24. Policy DM7 of the adopted SADMP requires that any adverse impacts from flooding as a result of development would be prevented.
- 7.25. The site is located wholly within Environment Agency Flood Zone 1 which is at the lowest risk of flooding. The applicant has stated that an existing drainage system exists on site which captures rainfall and surface water. The proposals include rainwater drainage connections from the proposed structures to this existing

infrastructure. The proposed development will not result in any increase in surface water volumes, nor will it restrict surface water flows. The proposed development will not affect the flood plain or exacerbate flood risk. HBBC Drainage have no objections to the proposal and do not recommend any conditions.

- 7.26. The proposal would therefore be in accordance with Policy DM7 of the adopted SADMP.

Ecology and biodiversity

- 7.27. Policy DM6 of the adopted SADMP seeks to conserve and enhance features of nature conservation and ecological habitats. LCC ecology have been consulted but did not comment on the proposal.
- 7.28. The proposed development is located entirely within an area which has already been developed for B2 Industrial uses. The development site is hard surfaced and does not contain any features of ecological importance. The proposal would rely on the in-situ landscaping and boundary vegetation which serves the existing office and welfare facilities on site.
- 7.29. Furthermore, LCC Ecology have been consulted and have no objections or comments regarding the proposal.
- 7.30. In summary it is considered that there would be no ecological harm caused by the proposal and it would therefore be in accordance with Policy DM6 of the SADMP.

Impact on heritage assets

- 7.31. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Area) Act 1990 require local planning authorities to pay special attention to the desirability of preserving listed buildings and their setting or any features of special architectural or historic interest which they possess and the desirability of preserving or enhancing the special character or appearance of conservation areas.
- 7.32. Policies DM11 and DM12 of the adopted SADMP and Section 16 of the NPPF seek to protect, conserve, and enhance the historic environment and heritage assets. Development proposals should ensure the significance of a conservation area is preserved and enhanced and that proposals are compatible with the significance of listed buildings and their setting.
- 7.33. The proposal is located approximately 450m east of the village of Cadeby at its nearest point. Cadeby is a designated conservation area and includes a small number of listed buildings within its historic core. The proposal for a steel fabrication workshop at the FP McCann Depot therefore has the potential to affect designated heritage assets by virtue of its location within their wider setting.
- 7.34. There is no known key historic, functional, or other relevant relationships between the application site and the above heritage assets so it makes no direct contribution to their significance. There is no clear intervisibility between the existing FP McCann Depot site and any listed buildings within the village due to the presence of existing built form, topography, and vegetation. There is very limited visibility of some of the taller existing FP McCann Depot structures from the along the main A447 Hinckley Road as it forms the eastern boundary of the conservation area. Where visible it is considered that due to their industrial character and appearance these features are a minor negative presence within the wider setting of the conservation area.
- 7.35. The proposal would seek to erect a new workshop to the south of the existing industrial structures at the existing FP McCann facility. The workshop would be a

rectangular plan building of concrete panels and clad walls and a shallow pitched cladded roof, 7.86m high at the ridge. It would be situated along the southern boundary of the FP McCann facility where there is a planting along the full length of the site perimeter. Despite the presence of this vegetation due to the height of the building it is considered that the proposed development has the potential to be glimpsed from the eastern boundary of the conservation area only, with no inter-visibility with any listed buildings maintained. It is considered that from the locations along the eastern boundary of the conservation that the alteration to the existing views would be limited in their perception and would be seen set within the immediate context and backdrop of the existing industrial structures forming part of the wider FP McCann Depot. In my opinion the proposed development would result in a negligible visual change along the eastern boundary of the Cadeby Conservation Area and would cause no harm to its significance.

- 7.36. As a result, the proposal would comply with Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD and Section 16 of the National Planning Policy Framework.
- 7.37. *Mineral Safeguarding*
- 7.38. The site is located in the mineral safeguarding area for sand and gravel and policy MS11: Safeguarding of Mineral Resources of the Leicestershire Minerals and Waste Local Plan (LMWLP) would normally apply. However, in line with the comments provided by LCC as the Minerals Planning Authority, as the proposal is situated within the existing operational area and has already been developed as a level, hard-surfaced storage area and significant ground works are not envisaged, a Minerals Assessment is required for this application. With that in mind, the Minerals Planning Authority has no objections to the proposals and the proposal is judged to comply with policy MS11.

8. Equality Implications

- 8.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
 - (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.2. Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 8.3. There are no known equality implications arising directly from this development.

9. Conclusion and Planning Balance

- 9.1. The site forms part of an employment allocation under Policy DM19 of the SADMP and is located within the open countryside defined by the local plan. The proposal does not strictly comply with criteria a - e of DM4, however given that the site falls within an employment allocation and not open countryside, it is considered that it would still represent sustainable development.

- 9.2. Policy DM4 also requires that development proposals in the countryside do not have any significant adverse effects on the intrinsic value, beauty, open character, and landscape character of the countryside. Whilst it is acknowledged that the proposed building would be in a more prominent location than existing development towards the southern boundary of the wider site, it is not considered that it would cause significant adverse impact upon the character of the area.
- 9.3. However, the proposal would not result in an enhancement of the immediate setting, nor would it strictly comply with the relevant criterion (e) of DM4. Officers consider that despite this conflict with DM4, the proposal would fall within an existing allocated employment site and would be sited on hardstanding next to existing buildings as part of the business operations. It is therefore considered to constitute sustainable development and the proposal is therefore acceptable in balance with regard to DM4.
- 9.4. It has been demonstrated that there would be no adverse impacts as a result of additional noise, disturbance or light pollution to nearby residential properties from the development subject to conditions. No significant adverse impacts have been identified in respect of highway safety, and the scheme would preserve the character or appearance of the Cadeby Conservation Area.
- 9.5. The development will not generate additional employment, but it will support and renew the established industrial enterprise, in accordance with the strategic objectives set out in the SADMP and the priorities within the NPPF, which seek to support economic growth, innovation and productivity through sustainable development.
- 9.6. In summary, the proposal represents an improvement and expansion to the existing operations on site which would contribute to the ongoing vitality of the business. The conflict identified with DM4 of the SADMP would not significantly and demonstrably outweigh the benefits, and the proposal is therefore considered to represent sustainable development.
- 9.7. Overall, the proposal would be in accordance with Policies DM1, DM4, DM6, DM7, DM10, DM11, DM12, DM17, DM18, DM19 and DM20 of the adopted SADMP, policy MS11 of the LMWLP and the overarching principles of the NPPF and is therefore recommended for approval subject to conditions.

10. Recommendation

10.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

10.2. Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Location Plan (2023/CAD/PD-01)
- Proposed Site Layout (2023/CAD/PD-02)

- Plans and Elevations (2023/CAD/PD-03)

Reason: To ensure a satisfactory appearance and impact of the development to accord with Policies DM1, DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The materials to be used on the external elevations of the proposed development hereby permitted shall be in complete accordance with the submitted application details as follows:

- Plans and Elevations (2023/CAD/PD-03)

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

4. Prior to the use of the fabrication building hereby permitted for any manufacturing purposes, the doors shall be fitted with a locking mechanism to prevent the plant being operated whilst the doors are open. The locking mechanism shall be retained at all times and doors shall remain closed whilst the plant is in operation.

Reason: To safeguard the amenities of neighbouring properties from noise and disturbance to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until a scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. 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.
3. The Public Right(s) of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.

4. The Public Right(s) of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
5. If the developer requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to networkmanagement@leics.gov.uk at least 12 weeks before the temporary diversion is required.
6. Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.
7. No new gates, stiles, fences or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal.