

20201991	118 Evington Valley Road	
Proposal:	Change of use of first and second floor from office ancillary to industrial use to self-contained flat (1 x 3 bed) (Class C3); enclosed staircase at rear; alterations (amended plans received 07.09.21)	
Applicant:	MR HARVIR SINGH	
App type:	Change of use	
Status:	Change of use	
Expiry Date:	27 August 2021	
TEI	TEAM: PD	WARD: Spinney Hills



Summary

The application is before committee as the Head of Planning considers that the poor level of accommodation needs to be assessed against the small contribution it would make to the Council's housing supply.

- Ten objections received from 10 different City addresses raising concerns on loss of light to and privacy of neighbouring properties, overshadowing, visual amenity, noise and disturbance and increased risk of theft, parking.
- The main considerations are the impact of the proposal on the amenity of neighbouring residents, the quality of the proposed accommodation and the design and highways impacts of the proposal particularly in respect of safety.
- The recommendation is for refusal.

The Site

The application relates to the upper two floors of a three-storey building in a primarily employment part of the city and immediately adjacent to a residential part of the city.

The site is in a critical drainage area with the rear part of the site in Flood Zone 2 and the front part of the site (the part subject of the planning application) in Flood Zone 1.

Background

There is some ambiguity regarding the existing use of the ground floor of the premises. The application form notes that the two upper floors are in use as offices ancillary to the main industrial use of the site. This is reflected in the submitted plans (which mark the relevant parts of the property as offices and show a physical link at both the ground and first floor between the offices and the factory operations at the rear. This is also reflected in the submitted noise assessment that describes the site as consisting a vacant office space to the first and second floors and an existing operational joinery workshop to the ground floor.

However, in later discussions with officers the applicant has described how there is no industrial use at the site and that the ground floor is a clothing shop on the basis of planning approval 20050941 (approved at committee 05.07.05). Indeed, subsequent consents for minor works to the site reflect that the ground floor of the front part of the unit was in use as a shop. Google StreetView suggests that the premises was in use as such as recently as 2014.

The plans submitted under application 20050941 make it clear that particular application related only to the ground floor with annotations to the plans noting that the first floor to 116 was “to remain”.

Given the planning history described above, it is reasonable to conclude that the lawful use of the first and second floors that are the subject of this application is industrial. This application is assessed on the basis of the proposal as described on the application form and as shown on the originally submitted and later amended plans.

The Proposal

The proposal as described on the application form and as shown on the originally submitted and later amended plans is for the change of use of the first and second floors of the three-storey building from offices ancillary to the industrial use to a self-contained flat for the owner of the industrial use.

The first floor will contain a living room, a small kitchen, a dining room, a bedroom and a toilet room. The second floor will contain two further bedrooms and a larger bathroom. Access will be from the rear of the site off Marina Road.

The proposal also includes a new covered stairwell in place of the existing open stairwell, a fenced off amenity area at the rear and a new fence along the northern boundary of the site. The proposal has been amended so that the flat occupies the whole width of the first and second floors and so that there is a utility room at the rear part of the flat on the first floor separating it from the industrial use.

A Noise Impact Assessment Report and specifications of the ventilation units have been submitted with the application.

Policy Considerations

National Planning Policy Framework (NPPF) 2021:

Chapter 2 'Achieving sustainable development'

- Paragraph 2 and 11 (Presumption in favour of Sustainable Development)

Chapter 4 'Decision Making'

- Paragraph 40 (prior engagement)

Chapter 9 'Promoting sustainable transport'

- Paragraph 110 and 111 (severe impact on road network)

Chapter 12 'Achieving well designed places'

- Paragraph 127 (high standard of amenity)
- Paragraph 130 and 134 (good design and amenity)

Development Plan policies:

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

Additional documents:

SPD Residential Amenity

Vehicle Parking Standards – Appendix 1 of the City of Leicester Local Plan

Corporate Guidance – 'Achieving Well designed Homes'

Consultations

Environmental Health (noise) (LCC): - initial concerns raised regarding the application and that future occupiers would be exposed to high noise levels. However, having reviewed the noise assessment, consider that if all recommendations are implemented that these concerns would be assuaged. A requirement that ventilation arrangements ensure four air changes per hour.

Representations

Ten objections have been received. Though they are identical in content they are from ten separate addresses. They raise concerns that the proposal will result in loss of light to and privacy of neighbouring properties, overshadowing of neighbouring properties, additional noise, and disturbance to neighbouring

properties and increased risk of theft. The objections also raise concerns that the proposal will have a harmful impact on parking and the function of the highway network and on visual amenity.

Reference is made in the objections to solar panels, nature conservation, nearby listed buildings and conservation areas and to two schools within 20 metres of Marina Road. However, it is not clear what these references allude to.

Representation has been received from the applicant that the flat was to be occupied by him and his family and would help support him financially and his business.

He states that the application has been with the planning department for some time and expresses concern about how the final recommendation was reached

He has subsequently explored various other options with the officers, including ceiling and wall insulation, triple glazing and converting the whole building to residential rather than keeping it in mixed use. However, no resolution has been found as the options were not to the satisfaction of the Council or were financially unviable.

Consideration

Principle of Development:

Though the proposal is in a primarily industrial area and will result in the loss of some industrial floorspace, this floorspace is redundant office space associated with the factory that occupies the ground floor and two storey building at the rear. I do not consider that the proposal unduly compromises the ability of the site as a whole to serve its industrial, employment function.

The proposal would provide an additional flat within the City making a very small contribution to the City Council's 5-year housing land supply in accordance with the NPPF, Core Strategy and Local Plan.

The main issues for further consideration are amenity, design, waste, access and parking, drainage and the representations.

Residential amenity (future occupiers):

There will be a good level of outlook over Evington Valley Road from all habitable rooms of the flat.

There is some amenity space, albeit small, made available for the flat screened by a 1.8 metre fence and situated such that it will not unduly compromise the use of the rear yard area for the existing industrial use. However, in order to ensure that this amenity space stay distinctly separate to the existing industrial use I would have recommend a condition that the 1.8 metre fencing be installed prior to the occupation of the development and be retained throughout the lifetime of the development if the application was to be approved.

The size of the flat will be 165m² and provides a suitable level of accommodation for a three-bedroom flat in accordance with corporate guidance.

I note that colleagues in Environmental Health consider that if the recommendations of the noise report are implemented and that the ventilation system be installed in accordance with the submitted specifications that the proposal will be acceptable in terms of levels of noise for future occupiers whilst providing suitable ventilation.

The Noise Impact Assessment was undertaken to assess the potential for adverse impact from primarily road traffic noise from Evington Valley Road, motor mechanic noise from Valley Tyres, Madani Tyres & Autos and school noise breakout from Madani Schools Federation and also to assess the noise breakout from the ground floor industrial use.

Paragraph 130 part (f) of the National Planning Policy Framework 2021 states that planning policies and decisions should ensure that developments create places that promote health and well-being, with a high standard of amenity for existing and future users. Paragraph 174 point (e) states that Planning policies and decisions should contribute to and enhance the local environment by: preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. Saved policies PS10 and PS11 seek to protect residential amenity by resisting development that would result in unacceptable levels of pollution, including noise, air and smell pollution, resisting development that would result in a loss of safety and security and resisting development that would result in an unacceptable impact on the visual quality of an area, including the impact of litter. Development should not be permitted unless the health and amenity of neighbours and the wider environment can be assured.

Paragraph 187 of the National Planning Policy Framework establishes the 'Agent of Change' principle whereby the applicant is required to provide suitable mitigation before the development has been completed. The noise assessment does not appear to take into account the industrial use on the first floor at the rear and its potential harm on future residents of the proposed flat. The health and amenity of future occupiers cannot be assured and the application should be refused.

Residential amenity (neighbouring properties):

The stairwell will be set approximately 21 metres away from the rear of the nearest residential properties and I do not consider that it will have an unacceptable impact on the outlook from these properties. The proposal will replace an uncovered stairwell with a covered stairwell, and I consider that the proposal will not result in an overbearing impact on the rear of the residential properties on Marina Road.

I do not consider that the proposal will have an unacceptable impact on the light to and privacy of neighbouring properties. Nor do I consider that it will result in overshadowing of neighbouring properties, additional noise and disturbance to neighbouring properties or increased risk of theft.

I consider that the proposal will have an acceptable impact on the amenity of neighbouring properties and will be consistent with the objectives of saved policies H07, PS10 and PS11 at least in this respect.

Design:

The external alterations are minor and within the rear yard. I consider that the proposal will be in keeping with the host building and the character and appearance

of the area and will meet the objectives of Core Strategy policy CS03 at least in this respect.

Waste storage and collection:

The plans show space for bin storage. However, given that this is a mixed use site with both residential and industrial units I consider that these details are limited, particularly in respect of waste management responsibilities and collection arrangements. In addition, there is no way through the existing ground floor building to present waste bins on collection day and as such the nearest place to present bins would be Marina Road approximately 90 metres. I consider this to be an unsatisfactory and unsuitable arrangement, particularly given that bins will need to be taken over an existing industrial service and delivery yard which is neither safe nor practical.

Access, highways and Parking:

The proposal does not include any onsite parking. However, for a single flat above an industrial use I do not consider this to be unduly unreasonable. There are two accesses to the proposed flat, one from Evington Valley Road and one via a covered stairwell that leads from the rear flat and out to the service and delivery yard. The first of these entrances is only accessible via the ground floor industrial use and as such I consider it will likely be used as the secondary access because it would only be available when the industrial use is open. The access out to the service yard is an unsuitable and unsatisfactory arrangement which, given that there will be frequent deliveries to the rear of these buildings would likely result in significant highway safety risk to future occupiers and compromise the safe use of the service yard area by the existing industrial uses on the site.

Drainage:

The site is within a critical drainage area. However, as there would be no increase in the footprint of the building I consider that a requirement for a scheme of sustainable drainage would be onerous and that the impact of the proposal in terms of increased surface water run-off is unlikely to be significant.

I conclude that the proposal would not conflict with Core Strategy policy CS02 and is acceptable in terms of sustainable drainage.

Other matters:

The main planning issues raised by the applicant in his later representation (detailed above) are covered in the main consideration of this report. With reference to the flat being occupied by the applicant himself and his family would raise the same concerns as it would for any other future and existing occupiers. In addition, the Council only uses personal consents relating to who could occupy the flat in rare situations and there is no compelling evidence as to why a personal consent should be used in this instance.

Conclusion:

The flat will make a small contribution to the Council's housing supply however the level of accommodation that would be provided would be significantly harmful to the future and existing occupiers of the site contrary to national and local policies.

I therefore recommend REFUSAL for the following reasons:

REASONS FOR REFUSAL

1. The submitted noise assessment does not appear to take into account the impact of noise from the first floor of the industrial use (at the rear of the application site) on future occupiers of the proposed flat. As such the residential amenity of future occupiers cannot be assured by reason of general noise and disturbance contrary to saved City of Leicester Local Plan policies PS10 and PS11, and paragraphs 130, 174 and 187 of the National Planning Policy Framework

2. The rear of the proposed residential property faces the service and delivery yard of the existing industrial units on site with the access and egress to Marina Road approximately 90 metres away. This will result in an unsatisfactory, impractical and unsafe arrangement for future occupiers either exiting or returning via this route through to Marina Road or taking bins out to Marina Road on collection days. It would also compromise the safe use of the service yard area by the existing industrial uses on the site. As such the proposal conflicts with saved City of Leicester Local Plan policy PS10, Core Strategy policy CS14 and paragraphs 110 and 111 of the National Plan Policy Framework.

NOTES FOR APPLICANT

1. The City Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application advice was given during the application process. Notwithstanding that advice the City Council has determined this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received. As the proposal was clearly unacceptable and could not be reasonably amended it was considered that further discussions would be unnecessary and costly for all parties.
2. For the avoidance of doubt, this application is refused on the basis of the following drawings received by the City Council as local planning authority: 2020/03/091/A, mixed plans received on 07/09/2021.

Policies relating to this recommendation

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_AM12	Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01.
2006_H07	Criteria for the development of new flats and the conversion of existing buildings to self-contained flats.
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.
2014_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'.

2014_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.

2014_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.