

COMMITTEE REPORT

20220031	118 Evington Valley Road	
Proposal:	Construction of single storey extension at rear (Class E(g))	
Applicant:	Mrs B Uppal	
App type:	Operational development - full application	
Status:	Minor development	
Expiry Date:	3 February 2023	
TEI	TEAM: PD	WARD: Spinney Hills



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Summary

- Application brought to committee as 5 objections from 5 city addresses received and two petitions with 18 signatures
- Main issues are impact of the proposal on residential amenity, access and highways impacts, waste management and flooding impacts and the impact of the development on the neighbouring tree.
- Objections relate to residential amenity, access and highways impacts, waste management and flooding impacts.
- The application is recommended for approval.

The Site

The application relates to the rear 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

An application 20201991 for the change of use of the first and second floor from office ancillary to industrial use to self-contained flat and for an enclosed staircase at the rear and for other alterations was refused at planning committee of 08.12.21. The reasons for refusal were that the submitted noise assessment did 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 meaning that the residential amenity of future occupiers cannot be assured by reason of general noise and disturbance and that with the rear of the proposed residential property facing the service and delivery yard of the existing industrial units on site with the access and egress to Marina Road some distance away the proposal would result in an unsatisfactory, impractical and unsafe arrangement for future occupiers.

The officer's report for that committee noted that the lawful uses of the site had been ambiguous but concluded that the site consists of a vacant office space to the first and second floors and an existing operational joinery workshop to the ground floor.

The Proposal

The proposal is for a single storey extension at the rear of the premises. The extension will be 19.8 metres deep and 9.4 metres wide, effectively squaring off the footprint of the building. The extension will be part pitched and part flat roof with the eaves of the roof closest to the Marina Road properties being 2.5 metres in height and the flat roofed part being 4.5 metres in height. There would be two shutter and a door to the rear facing the service yard.

The plans show that the extension could be used as a separate unit but also show a door connected it to the ground floor tyre shop at the front.

The plans as originally submitted showed parking for eleven spaces along the boundary wall with the Marina Road properties. However, this has been amended so that there are six spaces, three adjacent to the loading bay and three to the southern boundary of the site.

A Tree Survey and Flood Risk Assessment including details of a Sustainable Urban Drainage Scheme has been submitted with the application, the latter has had two subsequent revisions following officer advice.

Policy Considerations

National Planning Policy Framework (NPPF) 2021:

Chapter 2 'Achieving sustainable development'

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

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

Consultations

Environmental Health (noise) (LCC): - no concerns

Trees Advice (LCC): - no concerns

Local Lead Flooding Authority (LLFA) (LCC): - no objection, subject to conditions securing additional Sustainable Urban Drainage Details.

Representations

Objections have been received from five separate Leicester addresses. Two petitions against the proposal have also been with received with eighteen signatures.

Concerns raised include:

- that were future owners to block access from Marina Road the development would not be accessible,
- that the proposal would result in congestion along Marina Road particularly given the later hours of use proposed for Monday to Friday (until 22:00 hours), and that this would be in conflict with the objectives of conditions attached to planning permission 20050941 that restricted hours of use to no later than 20:00 hours daily,
- that the applicant has no rights of access via Marina Road,
- that the proposal would result in an unsatisfactory, impractical and unsafe arrangement for current and future occupiers either exiting or returning

through to Marina Road or when residents are taking bins out on Marina Road on collection days

- that the proposal will harm access for emergency vehicles and refuse trucks and may have potential to cause harm to the highway safety or ease of access of children from nearby schools or disabled persons,
- that there would be parking and access issues within the rear industrial yard including that the space built on should be used as a turning area,
- that “Marina Road has sign of daden” (presumed to mean “dead end”?)
- that the proposal will result in an increase in disturbance in terms of noise particularly with deliveries being at the rear via Marina Road,
- that the access from Marina Road is in a poor state and currently unsuitable for larger vehicles,
- that the proposal would have a harmful impact in terms of loss of privacy,
- that the proposal would have a harmful impact on nature conservation,
- that the proposal would have a harmful impact on flooding,
- that there are existing health and safety concerns regarding the applicant burning rubbish at the rear of the site,
- that the proposal could result in later proposals for residential development,
- that neighbouring properties would depreciate in value as a result of the proposal and
- that no re-consultations were carried out after revisions to the scheme.

One of the objections described how the earlier submission indicated car parking for 11 vehicles on a plot of land where no right of parking was available to the applicant, the spaces being available to Units 7 and 8 and not to the applicant. Amended plans have been received removing these spaces and a revised application form submitted indicating that Certificate B had later been signed and relevant parties notified of the application. I note that the objections state that no such notification had been received.

Consideration

Principle of Development:

Though the proposal is in a primarily industrial area and the proposal the ability of the site as a whole to serve its industrial, employment function. As such the proposal as acceptable in principle.

Design:

The design of the proposed extension is functional. However, it has been designed so that it remains subservient to and in proportion to the existing building and so that the visual impact on the outlook from the rear of the Marina Road properties is minimised. Subject to a condition requiring that the brickwork be to match the existing and materials for the sloped parts of the roof be to match the existing roof planes, I consider the design of the extension to be appropriate to its industrial setting.

Residential amenity (neighbouring properties):

The rear gardens of the Marina Road properties are shallow at only 15 metres. However, with the eaves of the building being at 2.5 metres and then inclining to the full height of 4.5 metres I do not consider that given these properties already look southwards towards the bulk of the existing industrial building that the impact in this respect will be so great as to be unacceptable.

There are no windows directly looking to residential properties (only rooflights in the flat roof) and I do not consider that the proposal will have a detrimental impact on the privacy of neighbouring residential properties.

Though the proposal will result in an extended industrial building 15 metres to the south of residential properties, there are no openings on the northern side of the building and the site is already in industrial use. The proposal will result in a greater part of the industrial use of the site being enclosed indoors and as such the potential for noise and disturbance to residential properties will likely be reduced. Nevertheless, I consider it appropriate to attach a condition restricting the hours of use to no later than 20:00 hours, consistent with the objectives of planning application 20050941. I also consider it appropriate to attach a condition restricting the use to the light industrial (Class E(g)) applied for under the application and not for any other Class E use as the impacts of such uses on the amenity of neighbouring residential properties are likely to be greater than those covered under Class E(g).

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 PS10 and PS11.

Waste storage and collection:

The plans show space for bin storage. In contrast to the proposal refused under application ref 20201991 the proposal does not include residential use and as such there is not the same concern in relation to the unsatisfactory and unsuitable nature of waste arrangements, particularly as the lack of satisfaction with and the unsuitability of those arrangements were primarily due to the fact that those arrangements were for residential waste arrangements in an industrial context. The proposed waste arrangements are more feasible for an industrial use in an industrial context. However, I therefore consider it appropriate to attach a condition removing permitted development rights (under GPDO Sch.2, Part 3, Class MA) for the change of use to residential, particularly given that waste arrangements are not currently a legitimate consideration under this Class and Part of the GPDO).

Access, highways and Parking:

The proposal will only be accessed via the vehicular entrance on to Marina Road, including in terms of deliveries. This access is tight, 4.4 metres at its narrowest, but it is an existing situation that serves a number of industrial units that are accessed similarly. The part of the site covered by the extension itself has previously been enclosed with the site operating for industrial uses in spite of this. I do not consider that the extension itself will reduce the open space on site such as to unacceptably compromise its industrial function. Nevertheless, I consider that the parking layout has the potential to do so and that in the interests of highway safety the provision of a turning space should take priority. I consider that this can be secured by condition.

I note that were the access from Marina Road to be blocked in the future the proposed extension would be inaccessible by motor vehicles. However, this would

be the same for all units served by this access and the assessment of the application is not made on the likelihood or unlikelihood of the access arrangement in the future.

As the access is an existing situation and already serving a number of industrial units I do not consider that the proposal will result in an unacceptable increase in parking or congestion along Marina Road or an unacceptable impact on access for emergency vehicles, refuse trucks or harm to the highway safety of other users.

Nevertheless, for the residential amenity reasons above and consistent with the objectives of planning application 20050941 I consider it appropriate to attach a condition restricting the hours of use to no later than 20:00 hours.

Drainage:

The site is within a critical drainage area. A sustainable urban drainage system has been proposed and is largely satisfactory. However, additional details are required including:

- confirmation of the lifetime of the proposed development so that the correct climate change allowances for peak river flow and peak rainfall intensity can be applied,
- an exceedance flow management statement so that potential exceedance flows are managed without increasing risk to the development or adjacent site,
- an overflow into the existing drainage system in the event of the proposed tank being full, along with a product specification or design drawing of the drainage tank,
- a drainage layout plan showing the foul and surface water systems (proposed and existing), any connections into the public sewer systems, the location of and attenuation capacities of all proposed sustainable drainage measures and any flow control devices and
- a maintenance plan for all proposed sustainable drainage measures including a schedule of maintenance and identifying the responsible person or organisation for the maintenance.

Notwithstanding these additional details, satisfactory measures for sustainable drainage have been demonstrated and, subject to a condition requiring these additional details I conclude that the proposal would meet the objectives of Core Strategy policy CS02 and would be acceptable in terms of sustainable drainage.

Trees:

The tree survey submitted with the application identifies the tree in the garden to the north. However, it concludes that though the radial root protection area of the tree extends southwards into the site (and therefore into the area covered by the development) the existing concrete surface and brick wall is inhospitable to root growth and it is likely the rooting area is more offset to the north and the development is unlikely to affect this tree below ground. Council tree officers are satisfied with this assessment and as such I have no concerns regarding the impact of the development on this tree.

Other matters:

i note the concerns that the proposal may lead to later plans for residential development. Any such proposal would require an application for prior approval, which, under the current considerations of the General Permitted Development Order, would likely fail. However, and given that full consideration would need to be given to the appropriateness of residential development on this site, and to ensure that any subsequent changes to the General Permitted Development Order in this respect are taken into account, I consider it appropriate to attach a condition removing any permitted development rights for the change of use of the extension to residential purposes.

The site has little ecological value and as such I do not consider that the proposal will have a harmful impact on nature conservation.

The rights of access or otherwise of the applicant to the site and any depreciation in value of neighbouring residential properties are not material to the consideration of planning applications.

I therefore recommend APPROVAL subject to the following conditions:

CONDITIONS

1. START WITHIN THREE YEARS
2. The new walls and the slope of the roof shall be constructed in materials to match the existing walls and slopes of the roof. (In the interests of visual amenity, and in accordance with Core Strategy policy CS03.)
3. The use of the extension shall not be carried on outside the hours of 07:00 to 20:00 daily. (In the interests of the amenities of nearby occupiers, and in accordance with saved policy PS10 of the City of Leicester Local Plan.)
4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, or any order amending or revoking and replacing that Order with or without modification, the extension shall not be used for any purpose other than Class E(g) within Class E (Commercial, Business and Service) of the Order. (To enable consideration of the amenity of neighbouring properties and in accordance with Policies CS03 of the Leicester Core Strategy (2014) and saved Policies PS10 and PS11 of the Local Plan (2006).)
5. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no material change of use specified in Part 3, Class MA of Schedule 2 to that Order shall be carried out without express planning permission having previously been obtained. (To enable consideration of the amenity of future occupiers and consideration of satisfactory waste management and in accordance with Policies CS03 of the Leicester Core Strategy (2014) and saved Policies PS10 and PS11 of the Local Plan (2006).)
6. A turning space, to enable delivery vehicles to enter and leave the site in a forward direction, shall be kept available within the site. (In the interests in highway safety, and in accordance with saved policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS03.)

7. Prior to the commencement of development full details of the Sustainable Drainage System (SuDS) together with implementation, long term maintenance and management of the system shall be submitted to and approved in writing by the local planning authority. The use shall not commence until the system has been implemented. It shall thereafter be managed and maintained in accordance with the approved details. Those details shall include: (i) full design details, (ii) a timetable for its implementation, and (iii) a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the system throughout its lifetime. (To reduce surface water runoff and to secure other related benefits in accordance with policy CS02 of the Core Strategy. To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).

8. Prior to the commencement of development details of drainage, shall be submitted to and approved in writing by the local planning authority. The use shall not commence until the drainage has been installed in accordance with the approved details. It shall be retained and maintained thereafter. (To ensure appropriate drainage is installed in accordance with policy CS02 of the Core Strategy. To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).

9. The development shall be carried out in accordance with the approved Flood Risk Assessment (FRA) completed by Unda Consulting Limited dated 07/12/22 (version 1.0) and the following mitigation measures detailed within the FRA:

- Flood resistance and resilience measures
- Finished floor levels (FFL)

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority in consultation with the Lead Local Flood Authority.

10. Development shall be carried out in accordance with the following approved plans:

- Ref. no. 007, received 11.01.22
 - Ref. no. 008, received 11.01.22
 - Ref. no. 009, received 11.01.22
 - Ref. no. 010, received 11.01.22
 - Ref. no. 011, received 11.01.22
 - Ref. no. 012, received 11.01.22
 - Ref. no. 013, received 11.01.22
 - Ref. no. 014, received 11.01.22
 - Ref. no. 015, received 11.01.22
 - Ref. no. 002, received 16.11.22
- (For the avoidance of doubt).

NOTES FOR APPLICANT

1. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received. This planning application has been the subject of positive and proactive discussions with the applicant during the process (and pre-application).

The decision to grant planning permission with appropriate conditions taking account of those material considerations in accordance with the presumption in favour of sustainable development as set out in the NPPF 2021 is considered to be a positive outcome of these discussions.

Policies relating to this recommendation

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| 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_AM11 | Proposals for parking provision for non-residential development should not exceed the maximum standards specified in Appendix 01. |
| 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_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_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'. |