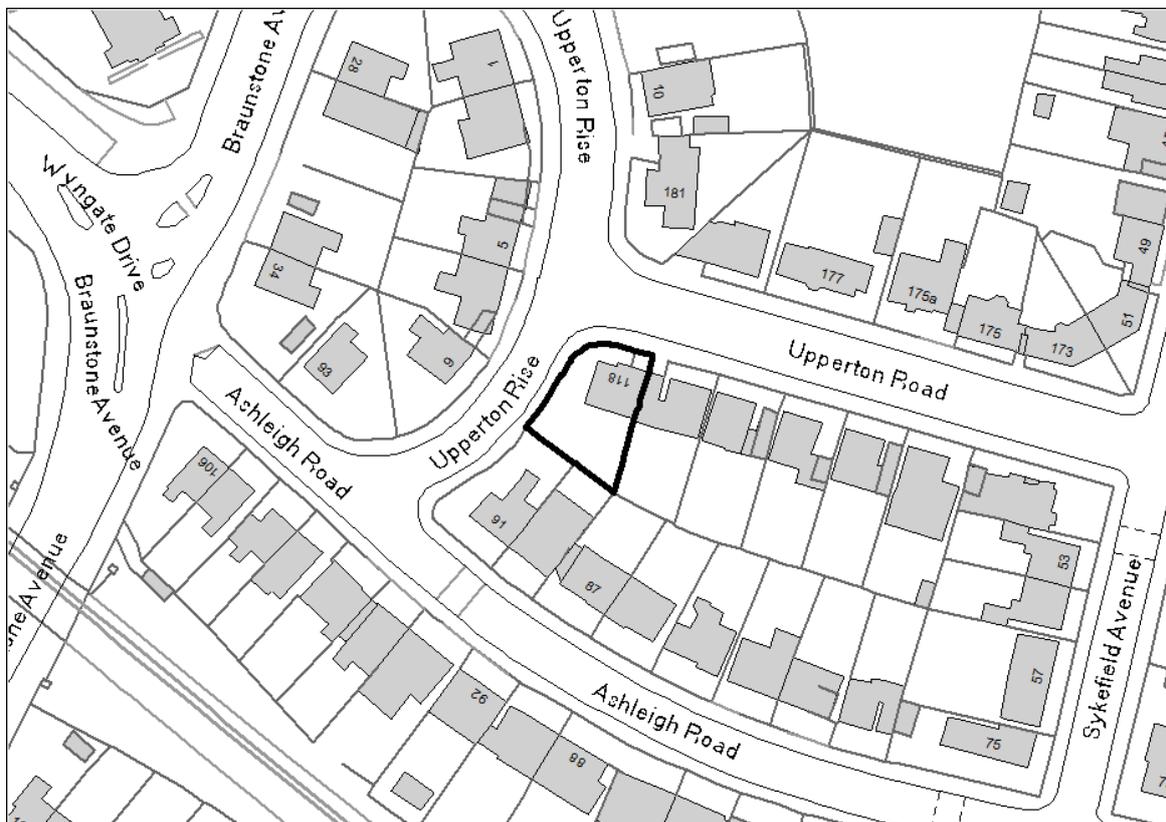


COMMITTEE REPORT

20221916	118 Upperton Road	
Proposal:	Construction of single and two storey extension at side of house (Class C3) (Amended plans received 01/11/2022, 15/11/2022 and 18/11/2022)	
Applicant:	Mr C Beckford	
App type:	Operational development - full application	
Status:	Householder development	
Expiry Date:	22 June 2023	
RB	TEAM: PD	WARD: Westcotes



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Summary

- The application is before committee due to more than five objections being received.
- 9 objections from 7 different households, including an objection from Cllr Russell, have been received on grounds of parking, residential amenity,

design, use as a house in multiple occupation and impact on the character and appearance of the area.

- The main issues are the residential amenity for the future occupiers and neighbouring properties, design, impact on the character and appearance of the area, and parking.
- The recommendation is for conditional approval.

The Site

This application relates to a two storey detached dwelling with a link garage within a primarily residential area. The site is on the corner of the classified Upperton Road and the unclassified Upperton Rise.

There are two Council owned trees on the highway just outside the application site, one to the front and one to the side.

The site is within an Article 4 Direction Area that removes permitted development rights for the change of use of dwellinghouses (Class C3) to houses in multiple occupation (Class C4). The article 4 direction came into effect on 17/02/2023.

Background

Application 20221360 for the construction of ground and first floor extension at side of house; single storey extension at rear; off road parking (Class C3) was refused on 15/09/2023 for the following reasons:

1. The proposed first floor side extension has not been designed to appear subservient to the existing dwellinghouse. The addition of a large front facing gable creates an imbalance to the front elevation as it does not match the front facing gable on the existing house. Further imbalance is created with the addition of the box gutters on the proposed roof which would form an obtrusive feature to the front elevation. The proposal is not consistent with Core Strategy Policy CS03, NPPF Paragraphs 126, 130, 132, 134 and the Residential Amenity SPD (Appendix G).
2. The proposed single storey rear extension would intersect the 45 degree line drawn from the centre of the adjoining habitable principal room window and would result in a loss of outlook for the neighbours at 116 Upperton Road. The proposal conflicts with Saved CLLP Policy PS10, NPPF Paragraph 130 and Residential Amenity SPD (Appendix G).
3. The applicant has not satisfactorily demonstrated how the addition of four parking spaces on Upperton Rise (which would involve the construction of a dropped kerb, potential removal of street tree and the removal of a lighting column) would be implemented. The applicant has not satisfactorily shown how the changes in land levels will be dealt with. The addition of four parking spaces is unacceptable in terms of parking provision. The addition of four parking spaces in a line would necessitate reversing either into or out of spaces which would create a potential safety hazard for those other users. The application is not consistent with Saved CLLP Policy AM02, AM12, NPPF

Paragraphs 111, 112, 184, Appendix 01 Vehicle Parking Standards, Leicester Street Design Guide and the Residential Car Parking Research for Leicester.

The Proposal

This application is a resubmission following the refusal of planning application 20221360.

The application proposes:

- The demolition of the existing link garage which adjoins to 116 Upperton Road.
- The construction of a two storey side extension measuring 9.3m in depth and 3.5m in width at ground floor level and 6.2m in depth and 3m in width at first floor level. It would be set back from the front elevation by 0.5m at ground floor level and 1.5m at first floor level. It would be set away from the common boundary with 116 Upperton Road at first floor level by 0.5m. The extension would be 5.5m in height to the eaves and 7.5m in total height. The extension would provide a dining room/kitchen at ground floor level and a bedroom with ensuite bathroom at first floor level.
- The construction of a mono-pitched roofed single storey extension at the rear of the proposed two storey side extension, measuring 2m in depth, 3.3m in width, 2.8m in height to the eaves and about 3.8m in total height. It would accommodate part of the kitchen.

Amended plans were received on the 15th November 2022 to show the removal of proposed additional parking spaces to the rear on Upperton Rise and to show the first floor level of the side extension set in from the boundary with the roof form changed to match the original property. A further set of plans were received on the 28th November 2022. No further amendments were made but additional measurements were provided on the drawings.

Policy Considerations

National Planning Policy Framework (NPPF) (2021)

Paragraph 11 states that decisions should apply a presumption in favour of sustainable development.

Paragraph 38 states that local planning authorities should work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, and that decision makers should approve applications for sustainable development where possible.

Paragraph 56 states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development, enforceable, precise and reasonable.

Paragraph 111 states that development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety or severe cumulative impacts on the road network.

Paragraph 126 describes good design as a key aspect of sustainable development.

Paragraph 130 sets out decisions criteria for achieving well designed places. It states that decisions should ensure that developments (a) will function well and add to the overall quality of the area; (b) are visually attractive as a result of good architecture; (c) are sympathetic to local character and history, including the surrounding built environment (d) establish or maintain a strong sense of place; and (f) create places with a high standard of amenity for existing and future users.

Paragraph 134 states that development that is not well designed should be refused, taking into account any local design guidance and supplementary planning documents.

Development Plan Policies

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

Supplementary Planning Documents (SPD)

Residential Amenity SPD (2008)

Appendix 1: Vehicle Parking Standards (2006)

Representations

In the initial consultation period, two objections were received, which set out the following concerns:

- The addition of four parking spaces was too great
- The side extension looked like it was not incorporated into the overall look and design of the existing building.
- Concern regarding the foundations and how the proposal will be constructed.
- Future access for maintenance at neighbouring properties.
- Bonfires have been lit within the application site which have resulted in smoke in the area.

Amendments were received on the 15th November 2022 and the application was re-publicised for a 14 day period in addition to the initial 21 day period. 5 further objections from residents within the city (including objections from the two original objectors) and an objection from Cllr Russell were received on the grounds:

- Over development and Impact on residential amenity
- Issues of how the proposal would be constructed, foundations and building regulations are still not addressed;
- The ground floor extension would be built up to the neighbouring boundary;
- The reduction in width at the first floor is not sufficient and the neighbour would still not be able to have access to property for maintenance;
- The proposed layout would suggest that the proposal would relate to a House in Multiple Occupation, rather than a family dwelling in an Article 4 area restricting such uses;

- The absence of a bin storage area and the impact of increased waste from the household on the character and appearance of the area;
- Parking concerns, due to increased traffic, impact on emergency services and existing parking restrictions;
- Noise from construction and construction related traffic.

Consultations

- None required.

Consideration

The main issues in this case are: the character and appearance of the area; the amenity of the occupiers of neighbouring properties; the living conditions of the host property; and parking and access.

Character and Appearance & Design

Core Strategy (2014) Policy CS03 calls for developments to contribute positively to the character and appearance of the built environment and requires developments to be appropriate to the local setting and context and take into account Leicester's history and heritage. The Policy goes on to refer to, amongst other things, scale, height, layout, urban form, architecture, massing and materials. Saved Policy PS10 of the Local Plan (2006) sets out amenity considerations for new development including (b) the visual quality of the area and (f) the ability of the area to assimilate development.

Appendix G of SPD Residential Amenity (2008) provides design guidance for house extensions in the city and is therefore also relevant to the proposals.

SPD Residential Amenity states that the overall shape, size and position of an extension must not dominate the existing house. The two-storey element of the extension would not project beyond the existing front or rear elevation of the property. The proposed single storey projection to the rear and side would appear modest in relation to the original property.

The proposed side extension is set lower from the existing ridge height, has a hipped roof to match the existing, is set in from the side elevation by 0.5 and set back from the front elevation by 1.5m. I consider that these design elements are successful in making the proposed extension appear subservient to the existing house and would not result in the overdevelopment of the site.

Comments have been received in regard to bin storage and waste management at the property as a result of the proposal. At present there is sufficient space at the rear of the property to provide bin storage with suitable access arrangement on the western side of the property with the bin storage is screened from the public realm. I consider that the proposed extension would not alter this arrangement, nor would it require significant additional bin storage. As such, the arrangement would be acceptable.

I consider it reasonable to attach a condition requiring the development to be carried out in materials to match the host dwelling so that any visual impacts are minimised.

I conclude that the proposal would comply with Policy CS03 of the Core Strategy (2014) and would not conflict with saved Policy PS10 of the Local Plan (2006), and is acceptable in terms of design and the character and appearance of the area.

Residential Amenity (Neighbouring Properties)

Core Strategy (2014) Policy CS03 requires developments to be appropriate to the local setting and context. Saved Policy PS10 of the Local Plan (2006) sets out amenity considerations for new development.

Appendix G of SPD Residential Amenity provides further guidance on the consideration of amenity impacts including outlook, daylight, sunlight and overlooking.

SPD Residential Amenity states that a single storey rear projections no deeper than 3m on or close to the boundary are likely to be acceptable. The proposed 2m deep single storey rear extension adjacent to the common boundary with 116 Upperton Road. I consider this to be acceptable in terms of neighbouring amenity and would be in compliance with the guidance set out within SPD Residential Amenity.

The neighbouring property at 116 Upperton Road has two side facing windows facing the application site at first floor level. These windows are both non-habitable room windows and, as such, little weight can be afforded to any loss of light to or outlook from them. As such, I consider that the proposed two storey side extension would not result in a loss of amenity at the side of the neighbouring property.

Dwellings in this area, including the application property, benefit from spacious plots including the depths of rear gardens. The separation distances to the rear of the proposed extension more than comply with the recommendations set out within SPD Residential Amenity.

I consider the proposed development would not result in an adverse impact on the amenity of the occupiers of neighbouring properties in accordance with saved Policy PS10 of the Local Plan and Core Strategy Policy CS03.

Living Conditions (existing and future occupiers)

Core Strategy Policy CS03 seeks the creation of buildings and spaces that are fit for purpose. Appendix G of SPD Residential Amenity states that extensions should leave sufficient space for general use and penetration of light and sun.

The proposal would increase the internal space available within the dwelling and provide for enhanced living conditions for the existing and future occupiers of the property as a family dwellinghouse. All habitable room windows would have sufficient light and outlook afforded to them.

The guidance set out that a 3+ bedroom house should have a minimum of 100sqm of private amenity space. The current rear garden amenity space measures is 162sqm

and the proposed development would result in the loss of 5sqm of that space. The resultant space would be well in excess of the recommended amount.

I therefore consider the proposal would accord with saved Policy PS10 of the Local Plan and is acceptable in regard to the living conditions of future occupiers.

Parking

Core Strategy Policy CS15 states that car parking should be appropriate for the type of dwelling and its location. Saved Local Plan Policy AM12 refers to the parking standards at Appendix 01 of the Plan, and those standards call for two parking spaces for 3+ bedroom dwellings in zones 3&4 of the city (which includes the application site).

NPPF paragraph 111 sets out that *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*

118 Upperton Road is on the boundary of a restricted parking zone and the occupiers would not be eligible for a permit. There is unrestricted parking in the immediate vicinity of the application site on this part of Upperton Road and Upperton Rise to the west.

The proposal would result in the loss of one garage space with the replacement of the garage with a two-storey side extension. I consider that the property would only have space for one parking space, which would not be in compliance with the adopted parking standards. However, I consider that there would not be an unacceptable impact on highways safety or severe impacts on the road network. Therefore, I consider that the proposal would not warrant a refusal on these grounds and would be acceptable in this instance.

Having regard to Appendix 01 of the Local Plan, that the proposal would have no unacceptable impact upon on-street car parking capacity and that the residual cumulative transport impacts of development would be unlikely to be severe and that, in these regards, subject to conditions the proposal would comply with Policy CS15 of the Core Strategy and saved Policy AM12 of the Local Plan.

Other Matters

I consider that the principal matters relevant to the consideration of this application and raised by third parties in representations have been addressed in the main preceding sections. The following matters have been raised by third parties and have not been addressed above:

- Although a House in Multiple Occupation (HMO) has not been proposed, the proposed layout, including ensembles to bedrooms and a bedroom at ground floor level, could be considered inconsistent with the use as a family dwelling. The application proposes an extension to an existing dwelling within the C3 use class and that is the basis in which the consideration of the proposal has to be applied. The Council cannot unilaterally amend the description of a proposed development contrary to that submitted by the applicant without their

consent. Although the layout is unusual, the property could still operate as a C3 dwelling. The property is in an area subject to an article 4 direction which removes permitted development rights for the change of use from dwellings to Hoses in Multiple Occupation. As such, any future change of use would require separate planning consent and any unauthorised use as a HMO could be subject to enforcement. I propose a Note to Applicant be added to the Decision notice to make this clear.

- Construction noise and delivery traffic will need to be managed/work should be confined to working day/week. As a proposal for domestic extensions and alterations I consider that it would not be reasonable or proportionate to seek to control construction traffic or hours as a condition of planning permission.
- Concerns have been raised in regard to foundations and how the construction will take place. These are not planning considerations and are covered by separate legislation under building regulations. Applicants are intitled to apply for development that abuts the common boundary with neighbouring properties. A party wall agreement may need to be agreed between the two parties. This is a civil matter and not a material planning consideration.
- Concerns have been raised that the proposed side extensions would affect future access for maintenance. I consider that the proposed side extensions, at both ground and first floor, would not fundamentally change the existing arrangements. There would be a single storey element abutting the common boundary, as existing, and the first floor element of the side extension would be set away from the boundary.
- Comments have been made in relation to the manner of works already undertaken on the property including the lighting of bonfires and the resultant fumes and that this might impact on how the extensions are constructed. This is matter that falls outside the remit of planning and can be dealt with under other legislation by other departments.

Conclusion

In conclusion, I consider that the proposal is acceptable in regard to its design, impact on the character and appearance of the area, the amenity of neighbouring occupiers, the living conditions of future occupiers and parking and is in accordance with local and national policies. Future use outside of C3 would need further permission from the Council and unauthorised occupancy could be controlled through enforcement action should that prove to be justifiable.

I therefore recommend that the application be APPROVED subject to the following conditions:

CONDITIONS

1. The development shall be begun within three years from the date of this permission. (To comply with Section 91 of the Town & Country Planning Act 1990.)
2. The new walls and roof shall be constructed in materials to match those existing. (In the interests of visual amenity, and in accordance with Core Strategy policy CS3.)

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

Proposed Site Plan, 118-UR-107, Rev B, received 15/11/2022

Proposed Elevations, 118-UR-102, Rev D, received 28/11/2022

Proposed Floor Plans, 118-UR-102, Rev D, received 28/11/2022

Proposed Roof Plans, 118-UR-105, Rev C, received 01/11/2022

(For the avoidance of doubt).

NOTES FOR APPLICANT

1. All foundations, gutters and downpipes should be wholly within the application site. No permission is granted for works on, under or above land outside the ownership of the applicant. The applicant may need to enter into a Party Wall Agreement with adjacent land owners.
2. On the 17th February 2023, permitted development rights in relation to the application property for the change of use from a Class C3 dwellinghouse to a Class C4 house in multiple occupation were removed by an article 4 direction. The development which is the subject of this application does not permit or imply permission for a change of use from a Class C3 dwellinghouse to a Class C4 house in multiple occupation. Any future unauthorised change of use of the property to a House in Multiple Occupation of three or more unrelated persons would be open to an enforcement action by the Council.
3. The proposal has been amended during the course of the application process. The approved development would need to be constructed in full accordance with the approved amended plans to satisfy condition 3.
4. 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/or 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_AM12 | Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01. |
| 2006_PS10 | Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents. |

- 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_CS15 To meet the key aim of reducing Leicester's contribution to climate change, the policy sets out measures to help manage congestion on the City roads.