

COMMITTEE REPORT

20242143	16 Plantation Avenue	
Proposal:	Retrospective application for the construction of a single storey outbuilding at rear of house for use as gym/office/music room (Class C3)	
Applicant:	Ms Susan Jane Holcroft	
App type:	Operational development - full application	
Status:	Householder development	
Expiry Date:	25 March 2025	
DJ	TEAM: PD	WARD: Aylestone



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Summary

- The application is brought to committee as more than 5 objections have been received.
- The main issues are the intended use of the proposal and its impact on the residential amenity of neighbours.
- The application is recommended for conditional approval.

The Site

The property is a semi-detached property in a residential part of the city. There are a number of trees on the site and nearby. However, none of these are protected by

Tree Preservation Order. The site is in an archaeological alert area (former sand pit 1880-1920) and a landfill buffer zone.

Background

No previous applications on the site.

The Proposal

The retrospective application is for the construction of an outbuilding within the rear garden of the site. The outbuilding is 7.5m wide, 5.7m deep, 2.4m high to the flat roof and eaves at the front; and 3.3m high to the gable at the front of the outbuilding. The outbuilding is shown to be used as an office, gym and music room with shower room.

Policy Considerations

National Planning Policy Framework (NPPF) 2024

Paragraphs 2 (Application determined in accordance with development plan and material considerations)

Paragraph 11 (Presumption in favour of Sustainable Development)

Paragraphs 40 and 41 (Pre-applications)

Paragraphs 44 (Sufficient information for good decision making)

Paragraph 57 (Six tests for planning conditions)

Paragraph 117 (Highways requirements for development)

Paragraph 135 (Good design and amenity)

Paragraph 139 (Design decisions)

Paragraph 140 (Clear and accurate plans)

Development Plan Policies

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

Other legal or policy context

Residential Amenity SPD (2008)

The Town and Country Planning (Development Management Procedure) (England) Order 2015

Representations

7 objections have been received from 6 Leicester addresses, including an objection from Cllr Porter. The objections raise the following concerns:

Principle and use

- Use class appears to be incorrect
- Built prior to submission of application
- Could be used for overnight accommodation
- Use of site as short term let accommodation
- Quality of materials means likely to be lived in year round

Design

- Exceeds maximum height levels
- Roof materials don't match what's shown on plans
- Ignored requirements to be under 2.5m high and more than 2m from boundary fence
- Fence higher than permitted levels erected on site
- Over development of the site

Amenity

- Loss of privacy to neighbours
- Increase in noise to the area
- New noises to garden including toilet and shower

Drainage

- Site is subject to flooding
- Sewage drainage and water supply pose risk to flooding

Nature

- Trees and shrubs removed despite stating otherwise

Other

- No fire protection to protect neighbouring properties and no reference to fire ratings
- Loss of views from garden
- No inspection from authorities
- Works completed during inappropriate times of the day
- Devalues houses in area
- Start date on application form is incorrect
- Driveway blocked during construction
- Disruption to neighbours during construction
- Will contact Local MP if planning permission is granted
- Rented property with owner living outside Leicester
- The proposal should be considered as a new dwelling within the garden
- New dwelling fails to comply with Policy H07 of the Saved Local Plan
- New dwelling provides insufficient information and living conditions
- New dwelling would increase vehicle movements in an area with significant parking pressures

- Approving the application would cause a lengthy and costly enforcement process when it inevitably begins to operate as an independent rental property.

1 letter of support is received which raised the following points:

- It is a large garden shed
- Would never be rented out to anyone else
- Only benefits current occupier
- Would create no traffic or sound pollution
- Constructed using high quality materials
- More eco friendly and sustainable than a shed
- Good quality
- Increase value to neighbourhood

Consultations

No consultations with statutory/non statutory consultees necessary.

Consideration

Principle of Development:

The proposal is for an outbuilding associated with an existing residential use in a residential part of the city and is acceptable in principle.

Objectors raised concerns that the proposed outbuilding would be used as a self-contained unit, possibly for short term let accommodation. However, no evidence has been submitted with the application to indicate that this is the case, and the proposal is assessed on its own merits.

Provided the use is residential and ancillary to that of the main dwelling house, there is no substantive policy issue with the proposal.

Applications should be determined on the basis of the facts of the case as opposed to speculation over potential future uses which would need separate consideration should a breach of planning control actually occur.

Character and Design:

Due to its size, design and location, the building is clearly subordinate to the main dwelling and not an uncommon development in rear gardens. The difference in land levels between the rear of neighbouring properties and the development and the screening offered by retained trees means that the development does not have an overbearing impact. I do not consider that there is unacceptable harm to either the site itself or to the wider street scene.

Objections have been raised in relation to the proposal exceeding maximum heights and being closer than specified distances to the boundary. However, these references to heights and distances are understood to relate to Permitted Development Rights which, if the outbuilding complied with, planning permission would not be required. Development larger than these rights is not necessarily intrinsically unacceptable, but will need to be assessed through the submission of an application for planning permission.

Objections also refer to the height of the completed boundary treatment. However, this boundary treatment is not subject of the current application and the plans note that it is existing. Were an alleged contravention be reported an assessment would be made as to whether the fencing was permitted development, and if an application for planning permission was required through which the acceptability or otherwise of the boundary treatment would be assessed.

As such I consider the development is acceptable in relation to Core Strategy policy CS03 and paragraphs 135 and 139 of the National Planning Policy Framework in this respect.

Impact on amenity of neighbouring properties:

The adjacent dwellings are 15 and 17 Plantation Avenue and 53 and 26 Holywell Road.

The development is approximately 25m away from the rear elevations of 15 and 17 Plantation Avenue and at this distance would not have an unacceptable impact on the outlook from, natural light to or privacy of these addresses.

26 and 53 Holywell Road do not face directly the development with the rear of the outbuilding facing the direction of the end of Holywell Road and with the frontages of both properties either side of this road. The proposal will have a negligible impact on the outlook from, natural light to and privacy of these addresses.

As the development is a residential outbuilding within a residential area there would not be a substantial increase to the levels of noise from the use of the building over and above what would be expected at a residential property.

As such I consider the development is acceptable in relation to saved City of Leicester Local Plan policy PS10 and paragraph 135 of the National Planning Policy Framework in this respect.

Amenity of the host property:

The development is sufficiently far away from the rear of the host property so as to both ensure that the outlook remains acceptable and a suitable amount of outdoor amenity space is retained.

Highways and parking:

The proposal will not result in an additional need for parking and will not have any impact on the proper functioning of the highway.

Drainage/Flooding:

An objection was received about the site being within a flood risk area. The site is located within Flood Zone 1 and the risk from flooding is low. The site is not in a Critical Drainage Area. A Flood Risk Assessment is not required for the site.

It is unlikely that the development substantially increases the level of flooding on the site or within the wider area.

Trees:

An objection was received concerned that trees and foliage were removed as part of the works completed.

There are no protected trees on the site, nor is the site located within a conservation area. Any trees that were in the footprint of the building have already been removed and could have been done so without consent. I consider it would be unreasonable to refuse the application on this basis.

Protected Species and Biodiversity Net Gain:

An application in a location with reasonable levels of foliage would normally require an ecology survey to ensure there is no damage to protected species. However, as the works have already been substantially completed, I consider that requesting such a survey would be necessary and cannot be reasonably required. Nevertheless, I recommend a note to applicant making sure that the applicant is aware of their legal responsibilities in relation to the protection of bats.

As the application is an application for householder development it is exempt from the statutory requirement to provide 10% Biodiversity Net Gain.

Other concerns raised in objections:

Fire safety standards are not material to the consideration of this planning application and subject of other legislation.

A site visit was carried out as part of the assessment of the application.

The specific start date for the works is not a material consideration for making a decision on this application.

I do not consider the proposal to be unacceptable in respect of the views from neighbouring properties.

Conclusion:

I therefore recommend APPROVAL subject to the following conditions:

CONDITIONS

1. The detached outbuilding shall not be used as living accommodation, shall only be used incidentally to the main house and shall not be used independently of the main house. (In the interests of residential amenity in accordance with Policy PS10 of the City of Leicester Local Plan.)
2. Development shall be carried out in accordance with the following approved plans:
Drawing 005 Rev A - Proposed Floor Plans - Received 12/12/2024
Drawing 006 Rev A - Proposed Elevation and Roof Plans - Received 12/12/2024
Drawing 007 Rev A - Proposed Elevation Plans - Received 12/12/2024
Drawing 008 Rev A - Proposed Relationship to Main House - Received 12/12/2024
(For the avoidance of doubt).

NOTES FOR APPLICANT

1. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because the following statutory exemption/transitional arrangement is considered to apply:

Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a

dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

2. The property may be suitable for roosting bats, which are protected by law from harm. The applicant should ensure that all contractors and individuals working on the property are aware of this possibility, as works must cease if bats are found during the course of the works whilst expert advice from a bat ecologist is obtained. Bats are particularly associated with the roof structure of buildings, including lofts, rafters, beams, gables, eaves, soffits, flashing, ridge-tile, chimneys, the under-tile area, etc. but may also be present in crevices in stone or brickwork and in cavity walls. Further information on bats and the law can be found here [Bats: protection and licences - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

4. The City Council, as local planning authority has acted positively and proactively in determining this application by assessing the proposal against all material planning considerations, including planning policies and representations that may have been received and subsequently determining 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 2024.

Policies relating to this recommendation

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| 2006_PS10 | Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents. |
| 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'. |
| 2014_CS17 | The policy sets out measures to require new development to maintain, enhance and strengthen connections for wildlife, both within and beyond the identified biodiversity network. |