

Recommendation: Conditional approval	
20190383	7 BRAUNSTONE AVENUE, LAND R/O
Proposal:	CONSTRUCTION OF SINGLE STOREY EXTENSION AT SIDE OF GARAGE TO CREATE DWELLINGHOUSE (1X 2 BED) (CLASS C3); ALTERATIONS (AMENDED PLANS 17/06/19)
Applicant:	MRS BAXTER
View application and responses	http://rcweb.leicester.gov.uk/planning/onlinequery/Details.aspx?AppNo=20190383
Expiry Date:	7 August 2019
SC	WARD: Westcotes



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Summary

- The application is being brought to committee because more than 6 objections have been received.
- 14 objections received, raising concerns about harm to the character and appearance of the area, wildlife, private views and residential amenity, parking and highways impacts, overdevelopment of the site, impact on property prices, flooding, compromising the future development of nearby land.

- The main issues are design, residential amenity, traffic and parking.
- Recommended for approval.

The Site

This application relates to the garden belonging to an existing house, located on a corner plot in a primarily residential area. The house has an extensive back garden (just over 60m deep), and there are a number of trees in the back garden, and along the northern boundary fence. An existing detached garage is located at the very rear of the site. Its walls are finished using a mixture of bare brick and pebble-dash render, with a corrugated roof.

There is a change of levels across the site, with the ground falling away strongly to the west. The site is located in a Critical Drainage Area. The Braunstone Brook runs approximately 45m to the west, and there are areas of Flood Zone 2 and 3 surrounding this, but the site lies outside these.

Background

072912 – Erection of garage. Approved June 1949.

20051629 – One (3 bedroomed) house with integral garage. Refused in October 2005 on the grounds that it would be harmful to the character and appearance of the area, and on grounds of inadequate information.

20052206 – One (3 bedroomed) house with integral garage. Refused in March 2006 on the grounds that it would have a cramped appearance that would be detrimental to the character and appearance of the area, and that it would be an overdevelopment that would provide a living environment that would be dark and have limited outlook. Appeal against the refusal dismissed on the grounds that it would harm the character and appearance of the area.

20080608 – Two storey detached residential annexe at rear of house. Refused in August 2008 on the grounds that it would be out of keeping with its surroundings on Cooden Avenue, that it would compromise the future development of land to the south of the site, and that it would provide unacceptable living conditions for future occupants, due to rooms having a poor outlook.

20141374 – Conversion and extension of garage to form one dwelling. Withdrawn in September 2014. This proposal was for a single-storey bungalow which would have been larger than the current proposal, and which would have extended forwards of the building line on Cooden Avenue.

20152362 - Extension and alterations to detached garage at rear of house to form residential annexe. Approved, subject to a condition that the use of the annexe remain incidental to the use of the main property.

(A number of applications for extensions to the main house have also been approved)

The Proposal

This application proposes the construction of a 7.2m wide by 5.1m deep extension at the eastern side of the garage, increasing its footprint by approximately 125%. This extension would have a dual-pitched roof whose ridge would be the same height as that of the existing garage and it is to be constructed using brickwork matching the existing building for the walls, with tiles for the roof. Other alterations would adapt the enlarged building to create a new, two-bedroom detached dwelling, which would have its own access from Cooden Avenue, making it independent of 7 Braunstone Avenue.

The proposal is an amended version of the one originally submitted, with minor changes made to the vehicle access in response to the concerns of officers regarding highway safety.

Policy Considerations

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

National Planning Policy Framework (February 2019)

Paragraph 2 states that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

Paragraph 11 contains a presumption in favour of sustainable development.

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Paragraph 108 - In assessing applications, it should be ensured that appropriate opportunities to promote sustainable transport modes have been taken up, and that safe and suitable access to the site can be achieved for all users.

Paragraph 109 goes on to state that development should only be 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.

Paragraph 117 requires planning policies and decisions to promote the effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 127 states that planning should ensure that developments are visually attractive, with a high standard of amenity for existing and future users.

Paragraph 130 goes on to state that permission should be refused for development of poor design, taking into account any local design standards or style guides in plans or supplementary planning documents.

Paragraph 163 – states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

Supplementary Planning Documents

Leicester City Council: Residential Amenity (February 2008)
City of Leicester Local Plan, Appendix 01 Parking Standards

Consultations

Traffic and Travel Planning – Had no objection, but requested the attachment of conditions relating to the construction of the vehicle access onto Cooden Avenue, and reinstatement of the pedestrian footpath at the site of the existing access.

Severn Trent Water (Drainage) – No response received.

LCC Trees Advice – Noted that the proposal would require the removal of a couple of trees, but given that neither of these merited protection with a TPO, had no objections.

Local Lead Flood Authority – Noted that the site is at low risk of fluvial and pluvial flooding, but that it is in a Critical Drainage area, so measures to limit surface water runoff should be considered.

Representations

14 objections were received from the residents of 9 nearby properties, giving the following grounds:

- Increased traffic congestion on Cooden Avenue, with consequent harm to road safety (especially for children playing in the cul-de-sac), and increased traffic noise, pollution and light pollution.
- The vehicle access through a closed boarded fence would create a highway safety hazard for pedestrians.
- It would exacerbate existing parking problems on Cooden Avenue, particularly on football match days. This might lead to further loss of front garden space due to people creating more on-site hardstanding.
- Concerns about access for emergency vehicles, bin lorries and delivery vehicles.
- Harm to the character of Cooden Avenue through making it less open and more built up on one side, and creating an overbearing impact.

- Harm to the character of Cooden Avenue, because the dimensions, design and materials are out-of-keeping with that of other houses in the street.
- It would reduce green space to an unacceptable level.
- Harm to the privacy of neighbours, including from any future removal of the closed boarded fence.
- It would be an overdevelopment of a site that is too small for a house.
- It would set a precedent, leading to further development of the land on the southern side of Cooden Avenue, increasing density and reducing living standards.
- Harm to the value of nearby houses (not a material planning consideration).
- Building on garden land could lead to increased surface water run-off and flooding.
- The construction of the existing garage would not be adequate for a dwelling.
- Concerns that the details provided of the trees on the site are incorrect.
- Concerns about some details provided on the application form (not identified as market housing, loss of non-residential floor space not included). No design and access statement has been provided. Lack of information on provision of gas, water, electricity and sewage services.
- Concerns that the new dwelling would be rented out or sold independently of 7 Braunstone Avenue.
- It would compromise future development of land to the rear of nearby houses on Braunstone Avenue, to the south of the site.
- Objecting to the fact that the current application is different from the previous application (for an annexe).
- Harm to wildlife, bird life and the environment through building on the open garden land at the rear of Braunstone Avenue.
- The building might be used for residential care in future, exacerbating congestion, parking problems and with vehicle movements during the night, in a way that would be inappropriate for a residential area.
- There is an absence of overriding need, since this proposal is not needed for housing dependent relatives.
- The condition attached to application number 20152362, restricting it to incidental use as an annexe was highlighted, stating that this was required to protect the amenity of neighbours.
- The new dwelling would be unduly close to 18 Cooden Avenue.
- It would harm the green and lush vista seen from front windows of houses on the northern side of Cooden Avenue.

Consideration

Principle of development

Policy CS06 of the Leicester Core Strategy (2014) undertakes to meet the City's housing requirements over the plan period through (amongst other sources) limited housing growth within established residential areas and small housing infill and conversion schemes.

Policy CS08 seeks to ensure that suburban areas continue to thrive and recognises that small scale infill sites can play a key role in the provision of new housing, but states that backland development should be compatible with the locality and any neighbourhood buildings and spaces in terms of design, layout, scale and mass. Policy CS08 goes on to resist development on garden land where it would have an unacceptable impact upon levels of biodiversity in the neighbourhood and states that, in areas of high architectural quality or significant local distinctiveness, the Council will seek to ensure that any new development is sympathetic to its specific location.

The site is located in a primarily residential area, and there are no site specific designations or constraints to indicate that a residential development would be inappropriate or inherently harmful. Given the above policy context and having particular regard to the City's current housing supply position, I conclude that the development of this particular site for a two-bedroom dwelling is acceptable in principle, subject to consideration of the impacts and qualities of the proposed development.

Design / Character and Appearance

Firstly, I note that the proposal under consideration is generally similar in its appearance to the annexe previously approved under application 20152362. The main differences being that the current proposal would be approximately 1.5m wider, and there would be two extra windows in the front elevation. Although it differs in its scale, design and materials from the existing houses in Cooden Avenue, the same could be said of the existing garage on the site. Overall, due to its location, size and design, I consider that it would form an acceptable feature within the surrounding suburban street scene, and that it would not harm the character and appearance of the area.

Living conditions (*The proposal*)

The proposed new dwelling would have an internal area of approximately 47m², which I consider to be an acceptable size. All of the habitable rooms in the proposed new dwelling would be sufficiently large, would receive acceptable amounts of natural light, and would have a satisfactory outlook.

The siting of the proposed new dwelling within its plot would be unusual, as it would be set back adjacent to the southern boundary. This leaves space available at its eastern side (occupied by the driveway / parking area) and at its front (occupied by the garden area). On the proposed site plan, the main garden is shown as being in the north-western corner of the site. I estimate the size of this area to be approximately

70m². This is slightly less than the 75m² recommended in the supplementary planning guidance, but it is close enough that I do not consider that this provides sufficient grounds for a refusal.

The arrangement of the site, with the amenity space at the front, is not ideal, but the closed boarded fence to be retained across most of the front of the site would provide visual screening from the ground floor windows of the houses opposite, and from people passing on the public highway at the front. If need be this could be improved by installing fencing or screening vegetation in between the driveway and the garden area. As regards overlooking from the first floor windows of the houses on the opposite side of Cooden Avenue: these would be more than 21m away from the windows in the front of the dwelling, and so the arrangement would not be dissimilar to the existing situation on Cooden Avenue. There would also be approximately 17m separation from the closed boarded fence at the front boundary to principal room windows of dwellings opposite the site, so I consider that the privacy afforded to the amenity space would also be satisfactory.

Core Strategy policy CS03 requires new development to meet the highest standards of accessibility and inclusion, based on inclusive design principles. Core Strategy Policy CS06 seeks to ensure that all new housing units are, where feasible, designed to 'Lifetime Homes' standards. The Lifetime Homes Standards have now been replaced by the requirements of the optional Building Regulations Standard M4(2) (accessible and adaptable dwellings). In view of the above, I consider that it is reasonable and necessary to secure compliance with Building Regulations Standard M4(2) as a condition of planning permission.

Residential amenity (of neighbouring properties)

Saved Local Policy PS10 sets out a number of criteria to be assessed when assessing the impact of development on residential amenity.

The extension to the existing garage would be built close to the southern boundary of the site, and would sit adjacent to the very rear of the back garden belonging to no. 9 Braunstone Avenue (which contains an outbuilding). Given that the proposal is single storey, I do not consider that it would be overbearing, or that loss of light to this part of the adjacent back garden would be unacceptable. Similarly, although it would also be close to the side of 18 Cooden Avenue it would sit next to the blank side gable of this neighbouring property.

As regards potential amenity impacts on the facing properties on the north side of Cooden Avenue: given the fact that it would be single storey, and set back from these by just over 21m, I do not consider that it would be overbearing, or cause an unacceptable loss of light. The separation distance is just over 21m, so I do not consider that it would be detrimental to the privacy afforded to these neighbouring dwellings.

Although the proposal would result in a reduction of the amenity space available to 7 Braunstone Avenue, it would still retain a back garden which would be well in excess of 100m² in area, meeting the standard for houses with 3 bedrooms or more.

Given the limited size of the amenity space available to the new dwelling, and its proximity to boundaries with neighbouring properties, I consider that it is appropriate to remove permitted development rights for classes A, B and E (i.e. to construct extensions, roof extensions and outbuildings) to protect the living conditions of the new dwelling, and the residential amenity of neighbours.

Waste storage and collection

Space is available at the front and side of the house for bin storage.

Highways and Parking

The vehicle access from Cooden Avenue would be 4m wide, and there are 2m by 2m visibility splays on either side, ensuring that pedestrians passing on the footpath can be seen from vehicles leaving the site.

Appendix 01 of the Local Plan (2006) sets out guideline standards for car parking in new developments, with a maximum of 2 spaces for 2 bedroom dwellings recommended for this part of the city. Local Plan Policy AM12 gives effect to the above car parking standards. The proposal provides two parking spaces oriented at 90° to the kerb line, and with a width of approximately 3m (per space) and a depth of approximately 5.6m, complying with the minimum Highway standards. Despite the removal of the garage, the host property can also still provide 2 off-street parking spaces at the front of the house.

The introduction of a new dwelling to Cooden Avenue would be likely to increase vehicle traffic to some degree. The site is near the end of a cul-de-sac where both vehicle speeds and traffic volumes are likely to be low. Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe. I note that the highway authority have not raised any objections to the development, and so in view of all of the above, and subject to a satisfactory access being secured by condition, I do not therefore consider that there would be an unacceptable impact on highway safety. Likewise, the change from 16 to 17 dwellings using this cul-de-sac represents an increase of just 6.25% in percentage terms, so I do not consider that the cumulative impact would be severe.

Drainage

Given that the proposal is for a new dwelling, created by increasing the footprint of the existing building by more than 100%, and located in a Critical Drainage Area, I consider that it would be reasonable to require the use of a Sustainable Drainage System (SuDS). No details of the proposed drainage have been provided with the application, but this can be secured using a Pre-Commencement condition.

Nature conservation/Trees/landscaping

As noted in the comments from the Council's Trees Advice section, the proposal would require the removal of two trees from the site. However as these are neither TPO

protected, or of a standard that would justify the imposition of a TPO (Tree Protection Order), I do not consider that the impact on trees is sufficient to justify a refusal.

Other matters

A number of other issues have been raised by neighbours. Considering these individually:

- Given that there is satisfactory on-site parking, I do not consider that the proposal would hamper access for larger vehicles such as those used by the emergency services, bin lorries, delivery vehicles etc.
- Although the proposal would result in a reduction in private green space, this would be within acceptable limits, and for the same reason it is not considered to be an overdevelopment of the site.
- Although the proposal would result in a small part of the street being built up on both sides, rather than remaining open, I do not consider that this change would be unacceptable in its visual impact.
- The removal of part of the closed boarded fence would reduce visual screening, and might have some potential impact on the privacy of neighbours. However, given the public highway intervening between the site and facing properties on Cooden Avenue, I consider that in practice its impact would be minimal, and that it does not therefore provide grounds for a refusal.
- Concerns have been raised that the proposed development would set a precedent, leading to other development on land to the rear of Braunstone Avenue. Given that planning applications are each considered on a case by case basis, and assessed on their merits, I do not consider this provides a valid planning reason for a refusal of permission.
- Potential harm to property values is not a planning matter.
- Whether or not the existing construction on the site is of a suitable standard for human habitation is a matter for Building Control rather than a planning matter.
- There have been some concerns about the information provided on the application form and plans, and the fact that no design and access statement has been provided. A Design and Access Statement is not required for a single dwelling (unless it is in a Conservation Area). Following a visit to the site, the accuracy and completeness of the information provided has been assessed, and sufficient information is available for a decision to be made.
- The application is for a new dwellinghouse, and so the potential for it being sold or rented separately to 7 Braunstone Avenue is understood, and the proposal has been assessed with the assumption that this is likely to occur.
- Previous applications for a new dwelling on the site have been refused on the grounds that they would compromise future development of land to the rear of nearby houses on Braunstone Avenue. However, this grounds for refusal relates to former Local Plan Policy H14 dealing with backland development, which has not been saved, and which is therefore no longer part of the development plan.
- Although the current proposal differs significantly from the one put forward under application number 20150383 (and from previous applications made for this site), the applicant is entitled to make a number of different planning applications for the same site, which must then be considered individually by the Local Planning Authority, according to their merits.

- Although it is possible that building on the site would have a minor harmful impact on birds and wildlife, this is garden land with no TPO-protected trees on site. The owner does not therefore require permission to remove trees and shrubbery, or to introduce hard standing, and can construct outbuildings on up to 50% of the garden without needing to apply for planning permission. I do not therefore consider that this provides grounds for a refusal.
- Use of the site for residential care would fall under use class C2 (Residential Institutions) rather than C3 (Dwellings). A planning application for a change of use would therefore be required, and the potential impacts of this particular use of the site would be assessed at that stage.
- Although this proposal is not for an annexe to provide care for a relative, the development of garden land to provide a new dwelling is not automatically unacceptable.
- Although a condition was attached to previous planning permission number 20152362, restricting use of the enlarged garage to use as an annexe, and giving residential amenity as the reason, this did not refer to the amenity of neighbours (as its impact was considered acceptable). This application is for a new proposal, which differs in its design and in the arrangement of the site. The living conditions of future occupants are therefore significantly different, and it has therefore been assessed on its own merits.
- Although the proposed new dwelling would sit close to number 18 Cooden Avenue, it would not come closer than the existing garage. It would sit adjacent to the blank end gable of this neighbouring property, and its impacts on the residential amenity of neighbouring properties has been assessed above.
- Although the proposal would affect the views from the front windows of facing properties on Cooden Avenue, the protection of private views is not a valid planning matter, and so this does not provide grounds for a refusal.

Conclusion

The proposed development is acceptable in principle and is in compliance with local and national policies. It would make a modest but nevertheless important contribution to the City's housing supply. The impact upon the occupiers of neighbouring properties and upon the character and appearance of the area would be acceptable. The new dwelling would secure satisfactory living conditions for future occupiers. The parking and access arrangements would be satisfactory. No trees of high amenity value would be adversely affected. Sustainable drainage details for the development can be secured as a condition of planning permission.

I therefore recommend that this 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.)

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2. Before the development is begun, the materials to be used on all external elevations and roofs shall be submitted to and approved by the City Council as local planning authority. (In the interests of visual amenity, and in accordance with Core Strategy policy CS3. To ensure that the details are agreed in time to be incorporated into the development, this is a PRE-COMMENCEMENT condition).
 3. 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 by the local planning authority. No flat shall be occupied/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).
 4. Prior to the commencement of development details of foul drainage, shall be submitted to and approved by the local planning authority. No property shall be occupied 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).
 5. No part of the development shall be occupied until the following works have been carried out in accordance with the written details approved in advance by the City Council as local planning authority: (a) footway crossing(s) at each vehicular access; (b) alterations to footway crossing(s); (c) reinstatement of any redundant footway crossings and/or damaged or altered areas of footway or other highway. (To ensure a satisfactory means of access to the highway, and in accordance with policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS3.)
 6. No part of the development shall be occupied until the 2 metre by 2 metre sight lines on each side of the new vehicular access have been provided, and they shall be retained thereafter. (In the interests of the safety of pedestrians and other road users, and in accordance with policy AM01 of the City of Leicester Local Plan and Core Strategy policy CS03.)
 7. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015, or any order amending or revoking and replacing that Order with or without modification, no development that would otherwise fall with Classes A, B and E of Part 1 (of Schedule 2) of that Order shall be carried out within the curtilage of the dwellinghouse hereby approved without planning permission having first been obtained from the local planning authority. (To ensure that any further development at the site does not

unacceptably affect the privacy and amenity of the neighbour occupiers and the character and appearance of the area, and to ensure that adequate amenity space for future occupiers of the development is retained on the site, in accordance with Policy CS03 of the Leicester Core Strategy (2014) and saved Policy PS10 of the Local Plan (2006)).

8. The dwelling and its associated parking and approach shall be constructed in accordance with 'Category 2: Accessible and adaptable dwellings M4 (2) Optional Requirement. On completion of the scheme and prior to the occupation of the dwelling a completion certificate signed by the relevant inspecting Building Control Body shall be submitted to the City Council as local planning authority certifying compliance with the above standard. (To ensure the dwelling is adaptable enough to match lifetime's changing needs in accordance with Core Strategy policy CS6)
9. This consent shall relate solely to the amended plans ref. no. 3102-02-A1 Rev e received by the City Council as local planning authority on 17th June 2019. (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/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 2019 is considered to be a positive outcome of these discussions.
2. Condition 7 refers to alterations/extensions and outbuildings that you are normally allowed to carry out to houses without planning permission. In this case the City Council wants to be able to control alterations/extensions/outbuildings to preserve the appearance of the property, protect the living conditions of future occupants or protect the amenities of neighbouring properties. You should contact the City Council (telephone (0116) 454 1000) if you are considering such works.
3. To meet condition 8 all those delivering the scheme (including agents and contractors) should be alerted to this condition, and understand the detailed provisions of Category 2, M4(2). The Building Control Body for this scheme must be informed at the earliest opportunity that the units stated are to be to Category 2 M4(2) requirements. Any application to discharge this condition will only be considered if accompanied by a building regulations completion certificate/s as stated above.

Policies relating to this recommendation

- 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_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_CS06 The policy sets out measures to ensure that the overall housing requirements for the City can be met; and to ensure that new housing meets the needs of City residents.
- 2014_CS08 Neighbourhoods should be sustainable places that people choose to live and work in and where everyday facilities are available to local people. The policy sets out requirements for various neighbourhood areas in the City.