

Planning

Growth & Development

Delegated officer report for planning application

Application no. 132241/NMC/2021

Date registered valid: 19 November 2021

Proposal: Non Material amendment to planning permission reference 129641/FO/2021 to allow alterations to steel staircases, alterations to windows and doors, bin store locations located to rear gardens and landscaping altered

Address: 84 Demesne Road, Manchester, M16 8PJ

Ward(s): Whalley Range Ward

Applicant: Mrs Shazia Akram Greystone construction solutions 84 Demesne Road, Manchester, M16 8PJ

Agent (if any): Mr Abdel Koussa Koussa Architects 66 Norman Road, Altrincham, WA14 4EB

Case officer: Dave Morris
Tel: 0161 600 7924
Email: dave.morris@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 15.12.2021

Application details

Type of application: Non-Material Change Application

Development type: Notifications

Date of site visit: None required for this type of application

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

No neighbour notifications have been printed and sent.

Site notice

No site notice has been produced

Press advert

No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building

This application relates to a large two storey double fronted detached property on the south side of Demesne Road. The property has an elevated ground floor and a substantial basement. There are two full height bays on the front elevation, between which is a substantial set of steps leading to the entrance. At the rear are two four storey, including basement and roof space outriggers. The property is offset to one side of the site. At the front there is a 10 metre deep garden and at the rear the garden is 4 metres deep. There is a 3.7 metre drive at the side of the property. The property has previously been used as a large HMO and was vacant prior to the building works that are currently on site commencing.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

This is a predominantly residential area. At this point Demesne Road is a Cul-de-sac. Facing the site is Alexandra Park. Adjoining to the west is a three storey residential block. To the south is Montgomery House a four storey student block and to the east is open space linked to Montgomery House.

Description of development

In May 2017 planning permission reference 115695/FO/2017 was granted for the conversion of the property into two dwelling houses (Class C3) including three-storey side extension and associated landscaping and car parking. The development was not constructed in accordance with the approved plans and in May 2021 reference 129641/FO/2021 a revised application was

approved. In November 2021 reference CDN/21/0830 seeking to discharge conditions attached to the planning permission was refused when it became evident that the development and consequently aspects of the conditions the applicant was seeking to discharge did not accord with the approved plan.

This application seeks to have treated as a non material amendment the following changes, the addition of a window at ground floor level in the rear elevation and the repositioning of a rear door to one of the properties. The elevated nature of the ground floor is such that external metal stairs are required to access the rear doors, these stair have been repositioned and now incorporate a small terrace outside of the door. The repositioning of the doors impacts on the approved refuse storage for one of the properties. Finally the areas of soft landscaping have been significantly altered and no longer reflect the areas shown on the approved drawings.

Consultations & Notification Responses

None required.

Issues

There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under section 96A of the Town and Country Planning Act 1990.

These properties have small rear gardens which immediately adjoin public areas belong to the students accommodation in Montgomery House, which is a short distance to the rear and is significantly taller. Concern is expressed that the additional window the raise terraces and relocated stairs could impact on the amenity of the Montgomery house site and it is necessary for them to be able to consider the impact of the changes through the consultation process available through a s73 application or new application. Further the revised layout impacts on the approved refuse storage scheme and the new scheme needs to be considered by the Council's statutory consultees.

The changes to the landscaping are not considered significant as ultimately as private houses they amenity space will be configured to meet the needs of the occupiers.

On balance it is considered that the proposed changes are material and require consideration through an application under s73. An application under S73 has been submitted prior to this current NMC application.

Human Rights Act 1998 considerations

This application needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the applicants (and those third parties, including local residents, who have made representations) have a right to a fair hearing and to this end the local planning authority must give full consideration to their comments.

Protocol 1 Article 1, and Article 8 where appropriate, confer(s) a right of respect for a person's home, other land and business assets. In taking account of all material considerations, including Council policy as set out in the Core Strategy and saved policies of the Unitary Development Plan, the Director of Planning, Building Control & Licensing has concluded that some rights conferred by these articles on the applicant(s)/objector(s)/resident(s) and other occupiers and

owners of nearby land that might be affected may be interfered with but that that interference is in accordance with the law and justified by being in the public interest and on the basis of the planning merits of the development proposal. She believes that any restriction on these rights posed by the recommendation given is proportionate to the wider benefits of and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

Recommendation: Refuse

Condition(s) to be attached to decision for approval OR Reasons for recommendation to refuse

1) The proposed amendments relate to the addition of a window in the rear elevation, the repositioning of a rear door and steps to the rear entrances, changes to the refuse storage arrangement and the landscaping of the site compared with the previously approved scheme.

2) Following an assessment of the details submitted, the City Council as local planning authority can confirm that the proposed amendments are not considered to be of a non-material nature. This is due to the addition of a window and alterations to the rear access to the properties which may impact on the adjacent uses and are significantly different to the scheme which was originally approved under application 129641/FO/2021 and could give rise to impacts on residential amenity which require further notification of neighbouring properties.

Given the difference between the approved works and those now proposed, I can confirm that the proposals cannot be determined as non-material under section 96A of the Town and Country Planning Act 1990.

In order to regularise the as built extension a new planning application or variation to the specified plans condition (condition number 2 of planning approval reference 129641/FO/2021) would need to be submitted as a section 73 application.

Appendix 1 – List of consultees & neighbours notified

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4

Aircraft Safeguarding Zone - Aircraft Safeguarding Zone - All Exceeding 90M

Flood Zones Type 2 (low to medium risk) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Middle) -

Area Team Boundary - Name: SOUTH