

Planning

Growth & Development

Delegated officer report for planning application

Application no. 131533/FH/2021
Date registered valid: 7 November 2021
Proposal: Extension of single storey outbuilding to create additional living/accommodation
Address: 62 Birch Hall Lane, Manchester, M13 0XL
Ward(s): Rusholme Ward
Applicant: Mr Mohammad 62 Birch Hall Lane, Manchester, M13 0XL
Agent (if any): Mr Amjad Tahir Aeys Associates Ltd 173 Dickenson Road, Manchester, M13 0YN
Case officer: Linda Marciniak
Tel: 0161 234 4636
Email: linda.marciniak@manchester.gov.uk
Recommendation: Refuse
Date of recommendation: 23 December 2021



Application details

Type of application: Full Householder Application

Development type: Householder

Date of site visit: None

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

Printed: 9 November 2021 Expired: 30 November 2021

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

The application site concerns the rear garden at 62 Birch Hall Road, currently a women's hair salon at ground floor with flat above accessed via a separate door alongside the salon entrance.

There is a 4.3-metre long detached breeze block outbuilding sited on the rear boundary which spans most of its 4.8 metre width. There is no fence between the eastern elevation of the outbuilding and the rear curtilage of the adjoining commercial property at No.60 Birch Hall Lane to the east.

There is a 17-metre long garden between the outbuilding and a rear 2-storey outrigger. The garden is bounded to the west by concrete panel fencing and to the east by extensions which cover almost all of the rear curtilage of No.60 Birch Hall Lane. At the end of the extensions there is a 1.97-metre deep area of land which extends along the eastern side of No.60 to a side gate on Birch Hall Lane.

To the rear of the site are residential houses; Nos.15 and 16 Kelstern Square, No.16 being behind the application site and No.16 behind No.60.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The site is the middle property within a parade of 3no. on the corner of Birch Hall Lane and Thoresway Road. A similar commercial ground floor use is located on the opposite corner to the south, with mainly inter-war residential housing making up the remaining land uses around.

The exception to this is a modern development of 10.no 2-storey flats south east of the site on Stamford Road.

Description of development

Extension of single storey outbuilding to create additional living/accommodation.

The proposal retains the existing breeze block outbuilding which will form a living room and seeks the determination of the Local Planning Authority for an extension which projects it into the garden with a single storey brick building that is 4.9-metres deep x 4.7-metres wide. Both buildings together will be laid out internally with a kitchen/dining room, living room, bedroom and shower room. A door opens from the kitchen into the rear garden at No.62, and another door leads from the living room onto a garden area that is on the third-party land at the rear of the extensions at No.60. The total floor area = 31.8m².

Consultations & Notification Responses

Neighbour notifications - A total of 7no. residents were notified of the application. The following comments were received:

We would like to take the opportunity to comment on this application as there are several concerning issues with this proposal and the feasibility of it due the problems it will cause.

I would like to first stress that we are not against an expansion or development itself however we would like the purpose, use and design of it to suit the environment it's in, as well as its surroundings being capable of adopting such construction.

Therefore, to simplify matters we have summarised the reasons and have divided them into subheadings. These are not comments just raised by us but also by other fellow neighbours.

- Its intended use:

This property and its neighbouring buildings are used solely for commercial use on the ground floors. Two of which (one being this property) has living accommodation on the first floor as a flat which has its own separate access from the front via a doorway of the public highway and stairs straight up to the first floor. The fact here is that at no point are the ground floors of the proposed property or neighbours used for living accommodation and therefore this outbuilding sits quite literally out of place from its non-residential neighbour's ownership making the quality of living not ideal.

We can understand and accept an outbuilding for living accommodation for purely a residential house. However, in amongst neighbouring buildings which are predominantly used for commercial use it's not what we'd call ideal for those intending to live in it. Looking at the way this has been designed and laid out it is clear to see that this is a stand-alone self-sufficient living accommodation flat, more so by the distance and awkwardness of travel from the flat on the first floor of the main building. Therefore, those living in this accommodation will be secluded and separate from those living on the first floor. Which hints of it accommodating separate tenants to those currently renting in the first floor flat of the main property particularly when the business is closed after hours. Which begs the question can the planners or anyone really dictate who this accommodation is suitable for and who can live there now or in future. I.e., a couple, a family, a student etc? I doubt so, as this will be difficult to control.

- Access through the ground floor Commercial Unit:

This then leads us on to the point of the inhabitants themselves. If you were to understand the daily function, use, and footfall of the immediate area and the property, you will come to quickly

realise that the intended habitants will not use (prefer to use) access to their outbuilding living accommodation through the ground floor business unit. As they will have to walk: through the front of the building, through the commercial unit (currently a women's only hair salon), through the private client rooms, out through the back door, and walk across the garden exposed to the outdoor elements and into their living accommodation. This does not seem practical. The counter argument that this is only once or twice a day during non-busy times is flawed as in reality when it comes to living accommodation and the free movement of the inhabitants coming and going cannot be controlled. This means of access alone poses many issues with times of access, prevention of access due to clients/customers in the business, health and safety, and security.

- Access through the rear secluded Alleyway:

I'd like to first point out that the access via the rear side of door of the proposed outbuilding is not through one which is adopted through the council. It is via private access road which is under the red line title plan of the neighbour No.60 Birch Hall Lane. They provide the necessary neighbours with the right of access to their current garages. As I'm sure you're aware the proposed development includes converting an existing garage into this living accommodation. As a result, I'd like to stress that the access road is not used for access to such living accommodation. Rather it is used for commercial use and vehicular access. Therefore, the proposed use of this alleyway poses very concerning issues regarding the safety and security of the end users.

- Security:

This access road has been cleaned and maintained multiple times by 60 Birch Hall Lane and used for access to and from its commercial property. Having this proposed increased footfall of unknown tenants to and from the outbuilding poses a threat to the security of its business/building and staff. Particularly as it opens exposure to the possibility of unsafe gangs, criminals' unlawful acts being carried out in the space etc. as it'll be visible and assumed that public are free to come and go through it. A large heavy metal gate is used for the alleyway which has been applauded by the council. However, it is not suitable for mothers' teenagers etc. to constantly open and close. There is also the element that the alleyway is not lit and does not have sufficient lighting for such free movement. If lighting is to be used, then this also questions the constant exposure of light to the neighbouring properties when people are coming and going in the alleyway but also in the properties garden as it will be there outdoor space. It also has high boundary fences which makes it hard to see who or what is going on, making those going through it vulnerable. Having reviewed the current agenda for secure my design principles and the crime impact assessments being carried out on developments, this means of access all the way round a corner into the living accommodation poses a strong threat to the security of the proposed tenants. Especially as it has a proposed large window on side elevation facing straight on to the dark secluded alleyway.

- Safety:

The rear door proposed on this living accommodation and the window illustrate an intent of frontage and a means of access. We'd like to point out that this use poses many possible hazards to the safety of the inhabitants.

The access road is used mainly for cars and commercial vehicles and therefore unsafe for constant use by the tenants of the proposed outbuilding.

There is staff loading and offloading stock/material from the commercial units via the access road which is red lined under the neighbour's title plan. This again means it is not ideal to rely

on this as the main access. Particularly if they themselves are carrying items such as shopping, boxes etc.

Please keep in mind that throughout these comments we haven't mentioned the risk of the possible variety of inhabitants, as they could easily be: kids, youngsters, mothers carrying babies or even on a push chair, elderly, those with poor eyesight etc. the list goes on.

There is vegetation in this alleyway which contains a mixture of large shrubs, plants, stumps etc. which creates a trip hazard for the means of accessing living accommodation. Also included are the waste bins that are put out into the alleyway by others which again is a serious trip hazard and health and safety obstacle.

There have been many incidents of fly tipping which No. 60 Birch Hall Lane have reported and cleaned at their own expense. Should this occur again, it is also hazardous to those living in the outbuilding.

Emergency Services:

When reviewing the proposal there are significant concerns to the ease of access for the emergency services to attend those living in the outbuilding in the event of an emergency. For example:

If there is a fire, in the outbuilding the fire service will need to access the building as quickly as possible, due to the fact that it is living accommodation and someone's life will be at risk. Therefore, traveling through the commercial unit through in front of the main property to then must go through the garden is not ideal. Especially after hours when the business is shut (Currently a beauty salon). This increases the time taken to attend the emergency. This same also applies to the police and ambulance service.

In addition, to the difficulty of attending the emergency from the front is the side alleyway also. The fire service truck will not be able to enter due to size and turning circle required and therefore, will need to park out front and run a hose all the way along the dark alleyway to the outbuilding which is not a comfortable distance. The same issues with obstructions in the access road for the proposed tenants as mentioned above regarding safety also apply to the emergency services.

- The Quality of construction for living accommodation:

When reviewing the drawings, part of the proposed construction is questionable, as the existing garage is to be converted and the existing blockwork is to remain. However, this does not seem adequate for living accommodation as it contains damp and has poor thermal performance. As an outbuilding for storage and garage use etc. is understandable. The drawing indicates that the materials used are to match existing. However, the existing garage is of blockwork. Not to mention, how confusing the hybrid refuse strategy will be for the living accommodation alongside the commercial ground floor unit. The waste was previously held in the garden and inside the garage.

There are many points of concern as to why this proposed outbuilding is not feasible as living accommodation. Those aforementioned, such as the suitability of its intended use in its surroundings, the major problems with the inhabitants' means of access, the worrying factors of safety and security, the concerns with health and wellbeing, the issues of easy access for the emergency services, the inability to dictate the type of tenants, the distances with neighbours from odour when cooking, the increased parking requirements (which is a struggle as it is) and more. These are all pointing towards the unsuitability of the proposal.

I trust you understand the comments and concerns raised and take all aspects of the development, its risks and its surrounding into account.

Issues

The following policies within the development plan are material considerations in this application:

UDP – Saved policies DC1 and DC6
Core Strategy policies SP1, EN1 and DM1

Principle

Saved UDP policy DC1 and Core Strategy policy DM1 make provision for residents to extend their homes. This includes the erection of an outbuilding that is ancillary to the main dwelling house to provide activities such as a home gym, office space, garden room, children's play or hobby space.

The current proposal seeks to extend an existing outbuilding to provide a 1-bedroom dwelling with garden space on third party land to the side and access through the commercial unit at ground floor, or via an unlit passageway to the side and rear of the neighbouring property. This raises a number of concerns as discussed below and which cannot be overcome by amendments or conditions. As such, the application proposal is considered unacceptable and is recommended for refusal.

Character

The location of the outbuilding on the rear garden boundary and with a separate access constitutes a form of development that is out of character with the pattern of development in the area, where there are no outbuildings with the option of independent or separate access in rear gardens. As such, the proposal represents an uncharacteristic form of development that is at variance with the prevailing character of the area, contrary to saved UDP policy DC1 and Core Strategy policies EN1, DM1 and SP1.

Use

The access and internal amenities which enable the outbuilding could function as separate living accommodation suggest a material change of use. Although the internal layout and inclusion of all amenities of itself does not imply it will function independently, the separate access into the building via third party land as confirmed by the agent, suggests this is an option. Furthermore, the agent has confirmed that the primary access is via the existing property but there are no Council Tax records for a residential use at 62 Birch Hall Lane. The nearest Council Tax records are for No.62A which was deleted in May 2021.

Access

The proposed accommodation shows an access and garden area that is required to be taken off third-party land running to the side and rear of No.60 Birch Hall Lane. Notwithstanding that this is outside of the site edged red, it represents a very poor standard and quality of access to and from the outbuilding, with no surveillance or lighting alongside and to the rear of No.60 leading into the living room, which puts future occupiers at serious risk of criminal activity. This undermines the objective of achieving sustainable development as embodied in Core Strategy policies DM1, SP1 and EN1.

Residential amenity

The 6-metre distance between the proposed outbuilding and the rear elevation of No.16 Kesteven Square, and the attendant comings and goings to and from the property via the third-

party land, would have a detrimental and unacceptable impact on the amenity of the occupiers of No.16. This is contrary to saved UDP policy DC1 which seeks to protect residential amenity.

Waste management

The proposal does not show how waste will be managed within the curtilage of the site. Based on the above, the proposal is contrary to saved UDP policies DC1 and DC6 and to Core Strategy policies DM1 and SP1.

Space standards

The scale of the proposal, at 31.8m², fails to meet the minimum provision of floorspace for a 1-bedroom property as set out in the Nationally Described Space Standards. This requires a minimum of 39m² plus 1.5m² of dedicated storage space. The proposal falls short of this standard both on grounds of floorspace and no storage provision.

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

Article 35 Declaration

The proposal would not improve the social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There are no conditions which could reasonably have been imposed, which would have made the development acceptable and it is therefore not possible to approve the application. An objection was received on public notification which raised several concerns with the proposal which were taken into consideration in the assessment of the application. The agent was advised of the Council's concerns by email and was given the opportunity to withdraw the application but did not respond to the Council's communication.

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

1) The proposed development, its relationship to surrounding properties in the area and its extent, height and location, it would constitute an isolated and inappropriate form of development which would be out of keeping with the character and pattern of development in the local area. The proposal is therefore contrary to the provisions of policies SP1, EN1 and DM1 of the Manchester Core Strategy and saved policy DC1 of the Unitary Development Plan for the City of Manchester and the NPPF.

2) The proposed development, by reason of its siting in the rear garden area with limited and poor access opportunities including across poorly overlooked and unlit third party land at the side and rear of No.60 Birch Hall Lane, represents a poor standard of accommodation that fails to create a safe and sustainable form of development. As such, the proposal is contrary to saved policy DC1 of the Unitary Development Plan for the City of Manchester and policies SP1, EN1 and DM1 of Manchester's Core Strategy Development Plan Document and the NPPF.

3) The proposed development by reason of its location to the rear of existing dwelling houses and without its own road frontage constitutes 'backland' development. Due to the siting of the proposed building and its relationship with adjoining properties there would be a loss of amenity to neighbouring occupiers as consequence of increased levels of activity, associated noise and disturbance, intrusiveness and loss of privacy. The proposal would therefore be harmful to surrounding residential amenity. As such, the proposed development is contrary to saved policies DC6 and DC1 of the Unitary Development Plan for the City of Manchester and policies DM1, EN1 and SP1 of the Manchester Core Strategy.

Appendix 1 – List of consultees & neighbours notified

15 Kelstern Square, Manchester, M13 0XW
First Floor, 60 Birch Hall Lane, Manchester, M13 0XL
Ground Floor, 60 Birch Hall Lane, Manchester, M13 0XL
62A Birch Hall Lane, Manchester, M13 0XL
37 Thoresway Road, Manchester, M13 0XN
60 Birch Hall Lane, Manchester, M13 0XL
16 Kelstern Square, Manchester, M13 0XW

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
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Susceptible to Surf Water Flood (Less) -
Susceptible to Surf Water Flood (Middle) -
Susceptible to Surf Water Flood (Middle) -
Area Team Boundary - Name: SOUTH