



Statement of Case on Behalf of Mr Kevin Short against the refusal of planning permission by Manchester City Council for the erection of a detached garden room at 23 Lakenheath Close, Manchester

## Introduction

This statement should be read in conjunction with the forms as an appeal against the refusal of planning permission by Manchester City Council for the erection of a detached garden room.

## Site History

The appeal application is a resubmission of application 129819/FH/2021 which was also for a detached garden room. That proposal measured 5.0 m in width, by 2.4m in depth and was to a height of 2.3m above ground level.

The previous application was refused on the 21<sup>st</sup> May 2021 for the following reason: “ *The proposed outbuilding by reason of its scale, bulk, massing, size, design would form an overly dominant and visually obtrusive feature within the street scene, and would be incongruous with the character of the area in general and within the Didsbury St. James Conservation Area, which would also have an overbearing appearance to neighbouring occupiers to the detriment of visual amenity and as such is contrary to saved policies DC1.1, DC1.2, DC1.3, and DC1.4 and DC18 of the Unitary Development Plan for the City of Manchester and policies SP1, EN3 DM1 of Manchester's Core Strategy Development Plan Document and the NPPF.*”

## Appeal Application

The appeal application was a resubmission measuring 3.66M in width x 2.03M in depth x 2.100M High above ground level. The application was supported by a personal statement as to why the garden room was necessary. The garden room has a living roof on it to soften the appearance even further even though it is already constructed in matching materials to the fence and the house.

It was refused for the following reason: “ *The proposed outbuilding by reason of its scale, bulk, massing, size, design would form an overly dominant and visually obtrusive feature within the street scene, and would be incongruous with the character of the area in general and within the Didsbury St. James Conservation Area, which would also have an overbearing appearance to neighbouring occupiers to the detriment of visual amenity and as such is contrary to saved policies DC1.1, DC1.2, DC1.3, and DC1.4 and DC18 of the Unitary Development Plan for the City of Manchester and policies SP1, EN3 DM1 of Manchester's Core Strategy Development Plan Document and the NPPF.*”

## Grounds of Appeal

### Procedural Point

Manchester City Council, do not comply with Regulation 7 of the Openness of Local Government Bodies Regulations 2014 [SI 2014 No. 2095]. These regulations were made under sections 40 and 43(2) of the Local Audit and Accountability Act 2014.

Regulation 7 [Recording of decisions] provides that the decision-making officer must produce a written record of any decision if it would otherwise have been taken by the relevant local government body [which includes councils that are local planning authorities], or by a committee or sub-committee of that body, or a joint committee in which that body participates, but it has been delegated to an officer of that body either under a specific express authorisation, or under a general authorisation to officers to take such decisions.

In *Shasha v. Westminster City Council* [2016] EWHC 3283 (Admin), the Deputy Judge held that there was an obligation on the decision-making officer in this case to produce a record of the decision to grant planning permission and the reasons for it as soon as practicable after the decision-making officer made the decision. This should be made available to the public via the portal. Manchester City Council do not do this.

As such the appellant in submitting these grounds of appeal is unable to see and understand what specific reasons the case officer took into account in determining the appeal application, and what specific details were found to be unacceptable, in relation to the street scene, the Conservation Area, and to the neighbour's residential amenity. There is also no public record of how the differences in the two applications were assessed.

### Background

Permission is required for the detached garden room because the application site, when permission was granted for the premises, had all its permitted development rights removed. The properties are a modern construction with the rear of the properties in a staggered formation, down to the ground where when constructed have no integral garages to store traditional items like bikes etc, and no external storage facilities either.



In submitting the appal application the appellant took on board the general provisions of the previous refusal , and reduced the scale of the proposed development. As a layperson he submitted the following statement in support of the appeal application:

*" We have bought a new 4 bedroom three storey house from PJ Livesey on the understanding that PJL would approve the building of the Garden come Storage/Office room, provided we obtain planning permission from MCC.*

*Our newly built house has NO garage or other facility essential for storing outdoor tools and equipment! Currently our electric lawn mower, strimmer, extension cable, various garden tools, mountain bikes etc are placed on the back garden patio at the rear of our house.*

*All the above items are totally exposed to the elements and they are already showing signs of deterioration, which as you can understand is very concerning !*

*I now have to work from home due to the Covid situation, so my intention was to utilise the Garden Room for dual purposes ie:- Essential Storage and Much needed Office Space.*

*Your records will show that this is our second Planning Application. Our first application was refused planning permission and the reasons given by you were as follows:-*

*"The scale, bulk , massing, size, the designs are overly dominant and are visually obtrusive within the Street Scene." To address the above mentioned concerns, we have instructed our agent Andrew Chapman to submit a second application, which will hopefully alleviate your concerns.*

*Our first application was for a Garden Room- 5M Long x 2.4M Wide x 2.44M High. The colour we proposed was for anthracite. The colour was chosen as it exactly matched with the colour scheme your Planning Department had approved to the Developers P/L. Note the whole of this development is in the same colour scheme . Please relate to the attached photos I have provided for our rear patio doors, windows and flashings, which you will see are in anthracite.*

*Please note that this 2nd Planning Application has taken on board MCC's concerns , so we have reduced the size considerably, in particular the height. The size we are now proposing is 3.66M Long x 2.03M wide x 2.100M High.*

*Within this 2nd PA we sincerely believe that we have addressed all MCC's concerns in respect of Scale, Bulk , Massing & Size. The changes we have made should also alleviate your concerns about design being overly dominant and visually obtrusive . We also propose that the GR should have a living roof , which will blend in with the surrounding greenery.*

*We have already given you the legitimate reasons why we chose the Anthracite colour within our first PA, however if it helps our case then we will change the colour of the GR to light oak , which will blend in with the present back and side fences.*

*We have already established excellent relations with our neighbours Michaela and Luke from 37 Wingate Drive, which is directly behind our property. They would welcome the extra privacy the GR would grant them and have sent a text message to us stating this to us "See attached copy of their message".*

*The MCC have taken PD rights away en masse across the whole estate, without just cause, an estate where there is NO storage provision whatsoever (NO internal or external garages), so this is totally unreasonable.*

*We feel it is within our Fundamental Right to have a facility to safely store our outdoor belongings within this small GR, which would normally be PD. As previously mentioned ALL these belongings are at present in the open and exposed to the elements, see our attachment Photographs.*

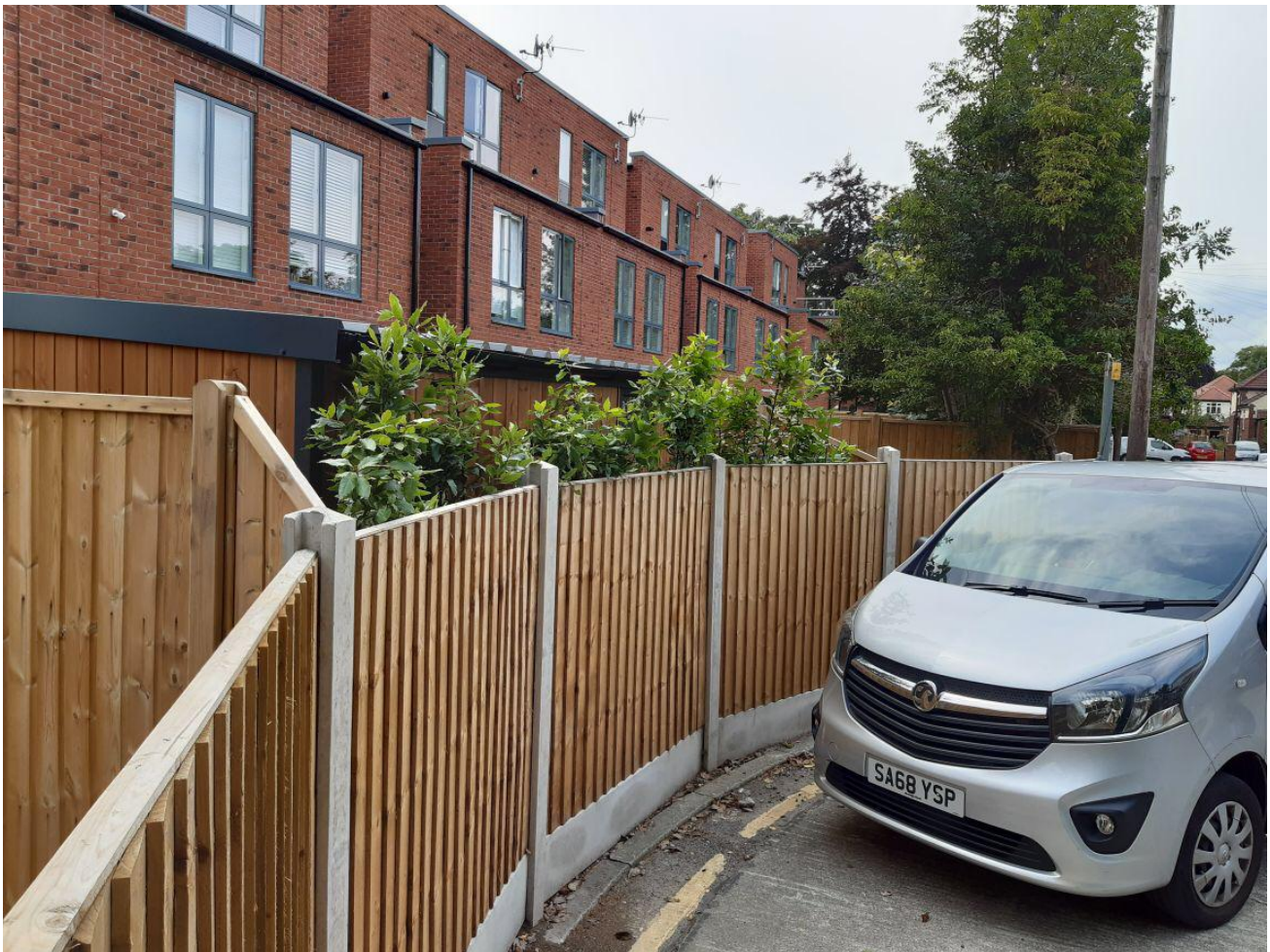
*Besides gathering rust and wet damage they are looking unsightly to us and our neighbours. Another major concern to us is that any intruder in the rear of our garden could use some of our heavy tools to gain access to our main residential property or that of our neighbours, which as you can imagine is an extreme worry to us!*

*We strongly believe that it is every home owner's right to have safe storage for all the above mentioned reasons. We sincerely hope that this Statement of Facts we have given you leads to your permission to grant this much needed facility. We are desperate to store all items already mentioned in a secure & safe place ASAP.*

*We are willing to make any reasonable adjustments suggested by MCC to our Plans if it achieves our ultimate goal of establishing this much needed facility."*

Appeal Application

The photograph below shows the appeal application and its siting.



It is clear that the scale of the development does not have an adverse impact in the street scene. Wingates Drive, is a short cul de sac consisting of red brick and rendered dwelling houses. The appeal site is one of a number of new properties constructed on the site known as Parklands under permission 119242/FO/2018 for the Erection of 22 No. (2 x 3 bed, 18 x 4 bed, 2 x 5 bed) houses (C3), conversion of Parklands (use class B1a) to 39 No. (16 x 1 bed, 20 x 2 bed, 3 x 3 bed) apartments (C3), conversion of and extensions to The Cedars (use class B1a) to 21No (8 x 1 bed, 10 x 2 bed, 3 x 3 bed) apartments (C3), conversion of The Coach House into 2 No. (1 x 1 bed, 1 x 2 bed) houses (C3) and conversion of The Lodge into 1 No. (1 x 2 bed) house

(C3), totalling 85 units, including demolition works, works to highways, provision of parking, landscaping and other associated works. Off 825 Wilmslow Road Manchester M20 2SN

The site was formally bounded by a close board fence and this was replaced as part of the approved scheme With a new close board fence. The new close board fencing along the back of pavement is actually only 1.5m in height and does allow a degree of overlooking into the rear garden of the appeal property and its neighbours that back onto Wingates Road. Effectively anyone over 1.5m tall (5 feet ) can see directly see into the rear garden area and downstairs patio area.

Notwithstanding that, the proposal that is the subject of the appeal is constructed of a similar material to that fencing and does not look out of place in the street scene. Planting has already taken place, which in time will completely screen the development. Notwithstanding that, the development itself is of a similar modern design to the close boarded fencing and to the pallet of materials on the rear elevation of the properties. It does not stand out in any way in the streetscene.

#### Effect on the Conservation Area

The NPPF states in Paragraphs 201 and 202 that:

“ Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

202. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”

As previously stated there is no officer's report so there is no opportunity for the appellant to understand the alleged impact on the Conservation Area. However, it is not considered that the proposal has any negative impact on the Conservation Area, given its modest scale and its modern materials which match the new development in which it sits behind.

#### Effect on Residential Amenity

As evidenced by the photograph, it is clear that the development which is the subject of the appeal application has little or no impact in the immediate streetscene. It is not known, which property the alleged adverse impact on residential amenity contained in the decision notice refers to. The properties on the other side of Wingate Drive are not affected, in any shape or form, indeed the appellant considers that any

argument that in some way the occupiers of properties on the other side of a typical suburban road ( Wingate Drive) are in any way affected by what is 60cms above a close boarded fence behind a laurel hedge, to be a somewhat unreasonable argument. Indeed it actually creates a greater sense of privacy, and does not block out any light to any property either opposite or next door.

#### Conclusions

The Council have failed to upload the officer's report which must form their statement of case. As such there are areas relating to the issues which they find unacceptable which are unknown to the appellant in composing this appeal statement.

However, when reading the reason for refusal of the appeal application and the previous application the Council appear to have cut and paste the previous reason for refusal

The appellant for the aforementioned reasons requests that the appeal be allowed.

