

Planning

Growth & Development

Delegated officer report for planning application

Application no. 129429/P20A/2021

Date registered valid: 15 March 2021

Proposal: Prior approval for the erection of 36 no. 1 and 2 bed apartments within a two storey rooftop extension

Address: New Lawrence House, 2 Shawheath Close, Manchester, M15 4TL

Ward(s): Hulme Ward

Applicant: Mr Andrew Broadhurst, Zagora Management Ltd, Derwent House, Waterfold Business Park, Bury, BL9 7BR

Agent (if any): Jason M Towriess, Cobe Consulting Ltd, Derwent House, Waterfold Business Park, Waterfold, Bury, BL9 7BR

Case officer: Jennifer Connor
Tel: 0161 234 4545
Email: jennifer.connor@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 04.05.2021

Application details

Type of application: Prior approval - new dwellings to flats

Development type: Notifications

Date of site visit: 1 April 2021

Standard consultations:

Printed: 22 March 2021 Expired: 12 April 2021

Neighbour notifications

Printed: 22 March 2021 Expired: 12 April 2021

Site notice

Posted: 1 April 2021 Expired: 22 April 2021

Press advert

No press advert had been published

Departure from Development Plan: No

Environmental Statement: Not required

Description of site/building/area

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of development

Prior approval for the erection of 36 no. 1 and 2 bed apartments within a two storey rooftop extension

Consultations & Notification Responses

One objection was received from a local resident in relation to existing problems with the site relating to fly tipping, graffiti and vandalism. Requests that the owner installs CCTV and have on site security.

Environmental Health – Recommend conditions relating to Construction Management, acoustic insulation and waste management.

Highway Services - The site is considered to be suitably accessible by sustainable modes and is in close proximity to a range of local bus services. Should the parking provision remain as existing it is anticipated that the proposals are unlikely to generate a significant increase in the level of vehicular trips and therefore would not raise any network capacity concerns. However, we have concerns that the 89 parking spaces would equate to a reduction of on-site parking from 85 to 63% which may increase the demand for on-street parking. An acceptable number of disabled bays are provided (7 bays equating to 8% of existing provision), and we would recommend that some new electric vehicle charging is provided. Secure cycle parking is

provided within the lower ground car park (132 spaces) which equates to 95% provision and is acceptable. Vehicle access is being retained from St Lawrence Street with pedestrian access retained from City Road which is acceptable from a highway perspective. The existing waste management arrangements will be maintained with waste storage in the lower ground floor and the management company responsible for presenting these adjacent to St Lawrence Street on collection days. This arrangement is acceptable to Highways. Should the planning application be approved it is recommended that a Construction Management Plan be conditioned which shall include, where appropriate the following details: o The routing of construction traffic; o Detail the vehicular activity associated with the construction including appropriate swept-path assessment; o Details of the location and arrangements for contractor parking; o The identification of the vehicular access points into the site; o Identify measures to control dust and mud including on the surrounding public highway including: details of how the wheels of contractor's vehicles are to be cleaned during the construction period; o The details of an emergency telephone contact number for the site contractor to be displayed in a publicly accessible location; o For large schemes a highway dilapidation survey including photographs and commentary on the condition of carriageway/footways on construction vehicle routes surrounding the site. The applicant is advised that any requirements for licensing, hoarding / scaffolding, building maintenance and any associated temporary traffic management arrangements will need discussion and agreement with the council's Highways Applications and Network Resilience teams via Contact Manchester (Tel. 0161 234 5004). SUGGESTED PLANNING CONDITION(S): - 1. Construction Management Plan.

MCC Flood Risk Management – As this is a roof top extension which doesn't increase impermeable areas they suggest no further drainage conditions. However, they are unsure if the application for the building which the extension is to being positioned above has had all drainage conditions discharged. If drainage conditions are still attached to the application for the building beneath the extension then these will still stand. (There is no record of how condition 20 attached to the outline consent reference 068956/OO/2003/S1 was discharged).

Manchester Airport Safeguarding Officer – No aerodrome safeguarding objections to the development. Advisory comment relating to cranes and tall equipment.

Trafford Council - Does not wish to raise any objection to the principle of the proposal. It is however noted that the pulling in of the extension away from the St Lawrence Road elevation could reduce over bearing impact on opposing neighbours.

Issues

The Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2020 came into force on the 31st August 2020.

This amendment conferred the right to construct up to two additional storeys of new dwellinghouses immediately above the topmost storey on a detached building together with:

- any engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses
- works for replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses
- works for the construction of appropriate and safe access and egress from the new dwellinghouses and existing premises in the building, including means of escape from fire, via additional external doors or external staircases
- works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses

The right was conferred subject to conditions, compliance with these conditions is set out in the prior approval application submitted, see below for assessment of submission:

The current building was not granted by virtue of permitted development rights under Schedule 1, Part 3, Class M, N, O, P, PA or Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

a) above ground level, the building is less than three storeys in height;

The current building is not less than 3 storey in height, it is 5 storeys in height.

(b) the building was constructed before 1st July 1948 or after 5th March 2018;

The building was constructed between 1 July 1948 and 5 March 2018. Outline planning consent was granted for development of the site under planning permission reference 068956/OO/2003/S1.

The consent was for development in phase 2 comprising a maximum of 247 residential units and 2,340 m² commercial floorspace in 4/5 storey blocks as illustrated on drawing 0104/MASS with basement parking of at least one space per dwelling. The accommodation will comprise 139 flats and 500 m² commercial floorspace to the east of the proposed spine road and 108 flats and 1,840m² commercial floorspace to the west of the proposed spine road.

The outline planning consent was followed by a reserved matters application 080003/MO/2006/S1.

The consent was for the erection of a part 2,3,4 and 5 storey building to form 139 flats and place of worship with semi-basement parking for 139 cars with associated landscaping following demolition of existing buildings.

(c) on 5th March 2018 the building was in a use other than—

- (i) a use or mixed use within paragraph AA(2)(a) or (b); or
- (ii) a use falling within Class C3 of the Schedule to the Use Classes Order;

The approved use of the building is as 104 C3 apartments

(d) the additional storeys are constructed other than on the principal part of the building;

The additional storeys shown on the submitted drawings are on the principal part of the building

(e) the floor to ceiling height of any additional storey, measured internally, would exceed the lower of—

- (i) 3 metres; or
- (ii) the floor to ceiling height, measured internally, of any storey of the principal part of the existing building;

The scheme would meet this requirement.

(f) the new dwellinghouses are not flats;

The scheme is for flats

(g) the height of the highest part of the roof of the extended building would exceed the

height of the highest part of the roof of the existing building by more than 7 metres (not including plant, in each case);

The scheme would meet this requirement

(h) the height of the highest part of the roof of the extended building (not including plant) would be greater than 30 metres;

The scheme would meet this requirement

(i) development under Class AA(1)(a) would include the provision of visible support structures on or attached to the exterior of the building upon completion of the development;

The scheme would meet this requirement

(j) development under Class AA(1)(a) would consist of engineering operations other than works within the existing curtilage of the building to—

- (i) strengthen existing walls;
- (ii) strengthen existing foundations; or
- (iii) install or replace water, drainage, electricity, gas or other services;

Building Control were consulted for their opinion. They state that it is entirely possible that there could be engineering operations outside of the curtilage of the property, Due to the history of the project, it is likely that exposure of the existing foundations would be asked for and this may well mean the carrying out of excavations that are outside of the curtilage of the property.

However, on the basis of information provided with the application the applicant has stated that works will not extend beyond works permitted. On that basis the prior approval could not be withheld.

(k) in the case of Class AA(1)(b) development there is no existing plant on the building;

There is no plant on top of the existing building nor is there any on top of the rooftop extension proposed

(l) in the case of Class AA(1)(b) development the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the extended building would exceed the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the existing building;

The scheme would meet this requirement

(m) development under Class AA(1)(c) would extend beyond the curtilage of the existing building;

The scheme would meet this requirement

(n) development under Class AA(1)(d) would—

- (i) extend beyond the curtilage of the existing building;
- (ii) be situated on land forward of a wall forming the principal elevation of the existing building; or

- (iii) be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building; or
- (o) the land or site on which the building is located, is or forms part of—
 - (i) article 2(3) land;
 - (ii) a site of special scientific interest;
 - (iii) a listed building or land within its curtilage;
 - (iv) a scheduled monument or land within its curtilage;
 - (v) a safety hazard area;
 - (vi) a military explosives storage area; or
 - (vii) land within 3 kilometres of the perimeter of an aerodrome

The scheme would meet these requirements

The developer must apply to the local planning authority for prior approval of the authority as to—

- (a) transport and highways impacts of the development;

Highways are satisfied subject to a condition relating to Construction Management

- (b) air traffic and defence asset impacts of the development;

There are no aerodrome safeguarding concerns subject to an informative relating to cranes and tall equipment

- (c) contamination risks in relation to the building;

No contamination risks have been raised by Environmental Health in their response

- (d) flooding risks in relation to the building;

Flood Risk Management do not require any conditions

- (e) the external appearance of the building, including—
 - (i) the design and architectural features of—
 - (aa) the principal elevation; and
 - (bb) any side elevation that fronts a highway; and
 - (ii) the impact of any works under sub-paragraph (1)(c) or (d) of Class AA;



In determining a similar prior approval application another Council have received advice from the Ministry of Housing, Communities and Local Government in relation to how external appearance can be assessed under legislation.

The MHCLG stated that it is down to the Local Planning Authority to interpret the regulations and use their planning judgement in considering applications for prior approval. It was also stated that the policy intention is that it is the narrower sense, so how the additional stories fit in with the existing building. Rather than whether the proposal fits in with the local vernacular.

Appeal decisions on the new legislation are currently non-existent and case law has not been established. It is therefore open for decision maker to interpret the legislation and exercise their own planning judgement.

It is considered that the proposed rooftop extension would disproportionately increase the scale and mass of the building which would harmfully unbalance the external appearance of the building. The extension would cause the building to appear over scaled and excessively prominent within the context. This consideration relates to the external appearance of the building when viewed from the street and from neighbouring property only.

The proposed increase in scale and selection of materials (Vulcan Cladding system in golden oak / Vulcan cladding in anthracite and Wetherby insulated render system in white with textured finish) would be of detriment to the visual attractiveness of the building and would be unsympathetic to local character. The impact to the external appearance of the building is found to be unacceptable due to conflict with policy outlined at Section 12 of the National Planning Policy Framework.

Specifically paragraph 127 b, c and d which state that decisions should ensure that developments should:

- Be visually attractive as a result of good architecture and

- Be sympathetic to local character and history, including the surrounding built environment.
- Maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

Paragraph 130 goes further to state that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

The development therefore fails to pass the test outlined at Condition A.2 – (1) (e) of Schedule 2, Part 20, Class A of The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020.

(f) the provision of adequate natural light in all habitable rooms of the new dwellinghouses;

The scheme would comply in this regard

(g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light;

In terms of impact the amenity of the existing building and neighbouring premises, it is recognised that the development will have a substantial impact on the lives of residents during construction. The LPA sympathises with this and could attach conditions requiring submission of a Construction Management Plan prior to prior approval being given. Due to the temporary nature of construction impacts, these would not warrant withholding prior approval however.

With regards to the amenity of the existing building and its residents, the proposed extension would not result in harmful overlooking or loss of privacy given its position on top of the existing building. In terms of impact to light within existing flats, the proposed extension would likely result in some reduction in light levels within upper floor flats, particularly to the courtyard southerly facing elevation of the main part of the building which fronts City Road (in relation to the increase in the height of the arm of the building that extends down St Lawrence Road, which sits due south and south-west of said elevation).

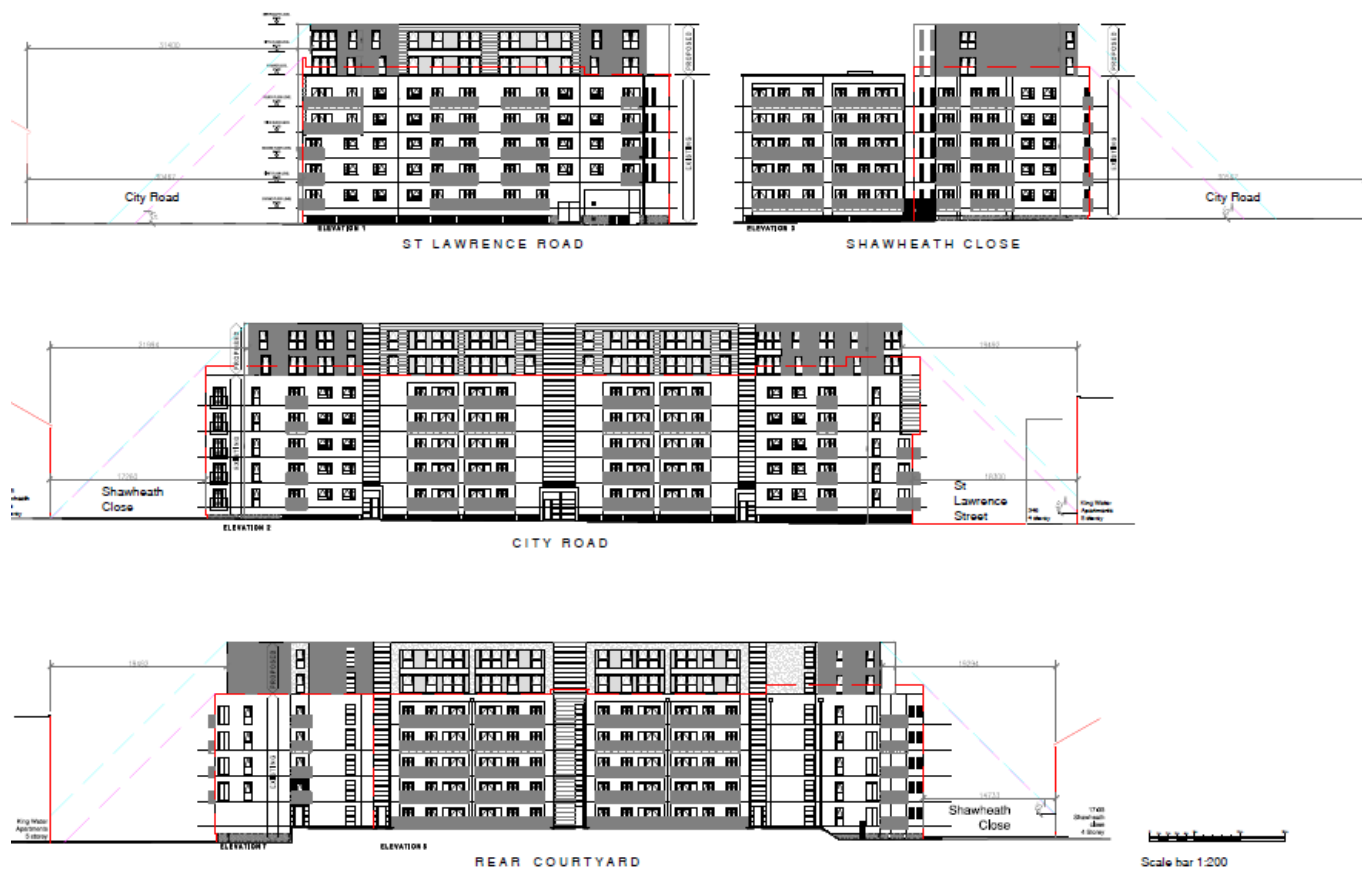
The application was not accompanied by a daylight/sunlight analysis that assessed such impacts, the submitted form stating that the proposed extension over the main body of the building will not impact on the daylighting levels within the existing units. However it is considered, due to the relationship set out above that the development would cause of harm to the residential amenities of occupants in the existing building due to loss of light.

Residents would likely experience some increase in noise and disturbance from increased access, comings and goings. This would be typical domestic activity however and would not be out of character with the existing residential use of the site. This is not found to pose significant harm to living conditions and amenity.

Turning to the impact to amenity at neighbouring properties, the nearest neighbouring properties to the building are:

The applicant states on their application forms that the rooftop extension has been setback from the main elevation to mitigate any impact upon the surrounding areas.

They refer to drawing No. C1518-PD13 which shows the street scene elevations together with a 45 degree angle of influence from the existing and proposed elevations. They state that the proposed extension will have little impact upon the elevations containing primary windows and minimal impact upon the elevations which contain secondary windows.



The extension is shown to be located 31.4m from property on the opposite side of City Road to the north at 292-326 City Road (4 storey) and 2-6 Grenham Avenue (3 storey). Although this distance would be reduced at the nearest point to c. 25m to properties at 252-290 City Road (4 storey).

The extension is shown to be located c. 22m from secondary windows to property on the other side of Shawheath Close (4 storey). Although on plan the south east most part of the roof top extension would be some c. 17m from south facing primary windows to the same premises.

The extension is shown to be located c. 19.5m from primary elevations to King Water Apartments (5 storey) and when measured of plan c. 13.8m from secondary windows to the side of 349 City Road.

Trafford Council commented in their notification response that the pulling in of the extension away from the St Lawrence Road elevation could reduce over bearing impact on opposing neighbours.

The application was not accompanied by a daylight/sunlight analysis that assessed such impacts. It is considered that the scheme would adversely impact upon residential amenity of neighbouring property by virtue of loss of light. Particularly with regard to the property at 349 City Road, King Water Apartments and property on Shawheath Close.

(h) impacts of noise from any commercial premises on the intended occupiers of the

new dwellinghouses;

Environmental Health are satisfied subject to the imposition of a condition relating to acoustic insulation

(i) impacts of the introduction of, or an increase in, a residential use of premises in the area on the carrying on of any trade, business or other use of land in the area;

Increase in residential use would be in a residential setting and would therefore be acceptable.

Conclusion

On the basis of the above it is considered that Prior Approval is required and refused due to the impact of the extension on the external appearance of the building and the impact of the extension on the amenity of the occupants of the host building and neighbouring premises through loss of light and overbearing impact, contrary to Part 20 Conditions A.2(1e and g).

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

Reasons for recommendation to refuse

Prior Approval is required and refused due to the impact of the proposed extension to the external appearance of the building, which is found to be unacceptable due to conflict with policy outlined at Section 12 of the National Planning Policy Framework. The development therefore fails to pass the test outlined at Condition A.2 – (1) (e) of Schedule 2, Part 20, Class A of The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020.

Prior Approval is required and refused due to the impact of the proposed extension on the residential amenity of the host building and neighbouring property with regards to loss of light and overbearing impact. This is contrary to policy outlined at Section 12 of the National Planning Policy Framework. The development therefore fails to pass the test outlined at Condition A.2 – (1) (g) of Schedule 2, Part 20, Class A of The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020.

Appendix 1 – List of consultees & neighbours notified

Environmental Health
Highway Services
MCC Flood Risk Management
Manchester Airport Safeguarding Officer
Trafford Council

List of properties notified on Uniform

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) -
Area Team Boundary - Name: SOUTH