

Planning

Growth & Development

Delegated officer report for planning application

Application no. 129651/LP/2021

Date registered valid: 9 March 2021

Proposal: Certificate of lawful proposed development for the erection of 2no. dwellinghouse's following the demolition of existing shed and fire damaged building

Address: Builders Yard Off Moseley Road (Rear Of Ladybarn Mews), Manchester

Ward(s): Fallowfield Ward

Applicant: Ms Batbul Ibrahim Builders Yard Off Moseley Road , (Rear of Ladybarn Mews), Manchester, M14 6WN

Agent (if any): Mr Hasnaat Saeed 1 Bank Street, Church, Accrington, BB5 4HH

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

Recommendation: Refuse

Date of recommendation: 23.03.2021

Application details

Type of application: Certificate Lawful Development Proposed

Development type: Certificates of lawfulness

Date of site visit:

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 rectangular site enclosed by a high brick wall. According to the applicant the site is occupied by a fire damaged building and a metal shed. The aerial photograph supplied with the application suggests these occupy opposite corners of the site.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The site is adjoined to the south and east by residential properties. To the west is a building supplies storage yard. The northern boundary of the site fronts an alley at the rear of residential properties on Mosley Road

Description of development

The applicant is seeking confirmation that the proposed development would be permitted by class ZXA of Schedule 2 class 20 of the GPDO as amended.

The submitted drawings show a pair of three storey attached properties facing west on the site. The properties are face east and take access from an alley from Mosley Road.

Consultations & Notification Responses

None carried out as this is an application for a Certificate of Lawful Proposed Development.

Legislation

The relevant legislation is Class ZA of Schedule 2 Part 20 of the Town and Country Planning (General Permitted Development) Order 2015 (As Amended). This class relates to the demolition of buildings and construction of new dwellinghouses in their place.

Issues

Class ZA.2(2) requires the applicant to apply for prior approval for development to be carried out under Class ZA. A certificate of Lawful Proposed Development cannot therefore be granted for the proposed development.

The applicant is seeking confirmation that the erection of two houses would be permitted development, however, Class ZA(2)(b) says that the provisions only apply to the erection of a purpose built detached dwellinghouse.

The proposed dwellings are sited roughly in the centre of the site. The existing buildings to be demolished are situated in opposing corners. As a consequence the proposed building would occupy land that is not part of the footprint of the existing building. The development would therefore conflict with the requirements of Class ZA1(h).

Conclusion

The Certificate of Lawful proposed development cannot be granted as the regulations require an application for prior approval and the development as submitted does not meet the requirements of all of the classes.

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) Class ZA.2(2) of Schedule 2 Part 20 of the Town and Country Planning (General Permitted Development) Order 2015 (As amended) requires the applicant to apply to the Local Planning Authority for prior approval of the following matters.

- (a)transport and highways impacts of the development;
- (b)contamination risks in relation to the new building;
- (c)flooding risks in relation to the new building;
- (d)the design of the new building;
- (e)the external appearance of the new building;
- (f)the provision of adequate natural light in all habitable rooms of each new dwellinghouse in or comprising the new building;
- (g)the impact of the development on the amenity of the new building and of neighbouring premises, including overlooking, privacy and light;
- (h)impacts of noise from any commercial premises on the intended occupiers of the new dwellinghouses;
- (i)the impact on business and new residents of the development's introduction of, or increase in, residential use in the area in which the development is to take place;
- (j)the impact of the development on heritage and archaeology;
- (k)the method of demolition of the old building;
- (l)the plans for landscaping of the development, including the planting and maintenance of shrubs and trees; and
- (m)any—
 - (i)air traffic and defence asset impacts of the development, and
 - (ii)impact that, because of the siting of the new building, the development will have on a protected vista identified in the Directions Relating to Protected Vistas dated 15 March 2012 by the Secretary of State, unless no part of the new building (including plant, radio masts and antennae) occupies airspace not occupied by the old building (including plant, radio masts and antennae).

2) The erection of two dwellinghouses is contrary to the provisions of Class ZA.(2)(b) of Schedule 2 of Class 20 of the Town and Country Planning (General Permitted Development)Order 2015 (As Amended) which allows only for the erection of a purpose built detached dwellinghouse.

3) The footprint of the proposed dwellinghouse falls outside of the footprint of the old building, the development is therefore contrary to the provisions of Class ZA.1(h) of Schedule 2 , Part 20 of the Town and Country Planning (General Permitted Development)Order 2015 (As Amended)

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

Susceptible to Surf Water Flood (Less) -

Susceptible to Surf Water Flood (Middle) -

Area Team Boundary - Name: SOUTH