

Planning

Growth & Development

Delegated officer report for planning application

Application no. 128236/FH/2020
Date registered valid: 14 October 2020
Proposal: Erection of two dormers to the front elevation
Address: 10 Birch Polygon, Manchester, M14 5HX
Ward(s): Rusholme Ward

Applicant: Kahn 10 Birch Polygon, Manchester, M14 5HX
Agent (if any): Philip Lambert Philip Lambert Architecture 3 Eastbourne Grove,
Bolton, BL1 5TR
Case officer: Robert Griffin
Tel: 0161 234 4527
Email: robert.griffin@manchester.gov.uk

Recommendation: Decline to Determine
Date of recommendation: 08.12.2020

Application details

Type of application: Full Householder Application

Development type: Householder

Date of site visit: None undertaken

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

Printed: 19 October 2020 Expired: 9 November 2020

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

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

The application property is a two storey red brick 'cheshire semi-detached' property within the Rusholme ward of Manchester. The property had been in use as a single dwellinghouse up until it was vacated by the previous owner although it is understood the property has been empty for some time prior to its more recent purchase by the applicant. The property is not Listed and it is not located within a Conservation Area, with the boundary of Victoria Park conservation area being to the northern side of Dickenson Road.

Birch Polygon is a cul-de-sac located off the busy Dickenson Road and contains a range of properties from larger Victorian detached and semi-detached properties to smaller two storey modern terraced properties to the south of Birch Polygon that were constructed in the mid 1980s on the site of the former . Some of the older properties on the street have historically been converted into multi occupancy in the form of bedsits or flats, however, there still remain some of the larger semi-detached properties in single residential dwellinghouses including the application property.

Description of development

The application proposals relate to the installation of two front dormers to the front roof plane of the roof.

Planning History

Planning application 125065/FO/2019 was registered by the Council on the 9th October 2019 and related to the Installation of two dormers to front following removal of existing dormer and change of use from single family dwellinghouse to 4no. two-bed self-contained flats.

The application was refused under delegated powers on the 4th December 2019, for the following 5 reasons:

- i) *The creation of the 4 no. self-contained residential flats would result in the loss of larger family accommodation, thereby reducing the availability of family housing and undermine the formation of sustainable communities. The proposal would therefore be contrary to the provision of policies SP1, H1, H5, and DM1 of the Manchester Core Strategy (2012), the Guide to Development in Manchester Supplementary Planning Document (2007) and the National Planning Policy Framework (2019).*
- ii) *The proposals would also result in an overly intensive use of the property resulting in the creation of low quality/substandard living accommodation for the occupants of the development, particularly in regard to flat sizes on the ground, first and second floor which would create unduly harmful impacts on the residential amenity of the occupants of the property; and the lack of natural light to the main habitable space to the basement flat. The proposal would therefore be contrary to the provision of policies SP1, H1, and DM1 of the Manchester Core Strategy (2012), saved policy DC5 of the Unitary Development Plan for the City of Manchester (1995), the Manchester Residential Quality Guidance (2017), the Guide to Development in Manchester (2007) and the National Planning Policy Framework (2019).*
- iii) *The provision of the rear entrance to the basement flat is unsatisfactory and would not provide safe entry and exit to the living accommodation due to lack of natural surveillance. This will compromise the safety, security and quality of living/standard of accommodation for the users of that accommodation. The development is therefore contrary to the provisions of policies SP1, EN1 and DM1 of the Manchester Core Strategy (2012), saved policy DC5 of the Unitary Development Plan for the City of Manchester (1995) and the National Planning Policy Framework (2019).*
- iv) *The creation of car parking and associated surfacing to the rear of the property would erode the landscape setting of the building which would unduly harm the character of the area in which the building is located to the detriment of visual amenity contrary to policies SP1 and DM1 of the Core Strategy and saved UDP policy DC5.1.*
- v) *The proposal, by reason of the size and introduction of two front dormers would produce an incongruous design feature, out of keeping with the existing dwelling and alien to the visual amenity and character of the street scene. As such the proposal is contrary to the City Council's Planning Policies SP1 and DM1.*

A subsequent appeal against refusal was dismissed by the Planning Inspectorate on 25th February 2020.

Consultations & Notification Responses

Councillor Ahmed Ali has written in objecting to the proposals. The current application appears to have not addressed all the issues raised by the City Council and the Planning Inspectorate in turning down their previous application. Essentially people have objected to the over-development and the change of the external characteristics of the building and the aesthetics of the street scene.

Therefore, I am writing on behalf of my colleague Cllr. Rabnawaz Akbar and the local residents formally objecting to this application.

Manchester Civic Society – Object to the proposals. The proposed dormer windows in this new application are almost identical to those which were comprehensively rejected both by the City Council and the Planning Inspectorate.

Rusholme and Fallowfield Civic Society -

Neighbouring properties were notified of the proposal's correspondence was received from 46 people objecting to the proposals. A number of objectors indicated that the proposals were similar to those previously refused permission.

Policy

The Core Strategy Development Plan Document 2012 -2027 ("the Core Strategy") was adopted by the City Council on 11th July 2012. It is the key document in Manchester's Local Development Framework. The Core Strategy replaces significant elements of the Unitary Development Plan (UDP) as the document that sets out the long term strategic planning policies for Manchester's future development.

A number of UDP policies have been saved until replaced by further development plan documents to accompany the Core Strategy. Planning applications in Manchester must be decided in accordance with the Core Strategy, saved UDP policies and other Local Development Documents unless material considerations indicate otherwise. Relevant policies in the Core Strategy are detailed below:

Core Strategy policy SP1 states that the key spatial principles which will guide the strategic development of Manchester to 2027 include: the emphasis is on the creation of neighbourhoods of choice, providing high quality and diverse housing around district centres which meet local needs, all in a distinct environment. The majority of new residential development in these neighbourhoods will be in the Inner Areas, defined by the North Manchester, East Manchester and Central Manchester Regeneration Areas.

Development in all parts of the City should make a positive contribution to neighbourhoods of choice including: creating well designed places that enhance or create character; making a positive contribution to the health, safety and wellbeing of residents considering the needs of all members of the community regardless of age, gender, disability, sexuality, religion, culture, ethnicity or income; protect and enhance the built and natural environment.

Policy EN1 relates to design principles and strategic character areas. The application site falls within the Southern Character Area which is identified as having a notable presence of older development (1750 – early 1900s). All development in Manchester will be expected to follow the seven principles of urban design, as identified in national planning guidance and listed above and have regard to the strategic character area in which the development is located. Opportunities for good design to enhance the overall image of the City should be fully realised, particularly on major radial and orbital road and rail routes. Design and Access Statements submitted with proposals for new development must clearly detail how the proposed development addresses the design principles, reinforces and enhances the local character of that part of the City and supports the achievement of the Core Strategy Strategic Objectives.

Policy DM1, Development Management - This policy states that all development should have regard to the following specific issues for which more detailed guidance may be given within a supplementary planning document:-

- Appropriate siting, layout, scale, form, massing, materials and detail.
- Impact on the surrounding areas in terms of the design, scale and appearance of the proposed development. Development should have regard to the character of the surrounding area.
- Effects on amenity, including privacy, light, noise, vibration, air quality, odours, litter, vermin, birds, road safety and traffic generation. This could also include proposals which would be sensitive to existing environmental conditions, such as noise.
- Accessibility: buildings and neighbourhoods fully accessible to disabled people, access to new development by sustainable transport modes.
- Community safety and crime prevention.
- Design for health.
- Adequacy of internal accommodation and external amenity space.
- Refuse storage and collection.
- Vehicular access and car parking.
- Effects relating to biodiversity, landscape, archaeological or built heritage.
- Green Infrastructure including open space, both public and private.
- The use of alternatives to peat-based products in landscaping/gardens within development schemes.
- Flood risk and drainage.
- Existing or proposed hazardous installations.
- Subject to scheme viability, developers will be required to demonstrate that new development incorporates sustainable construction techniques.

Saved UDP Policies

The following saved UDP policy needs to be considered in relation to the application.

Policy DC1 of the Unitary Development Plan seeks to accommodate the demand for more living space, while at the same time ensuring that the amenities of neighbours are protected, and that the overall character of the surrounding area is not harmed. It relates specifically to residential extensions and the relevant criteria from this policy include:

DC1.1 The Council will have regard to:

- a. The general character of the property
- b. The effect upon the amenity of neighbouring occupiers
- c. The overall appearance of the proposal in the street scene;
- d. The effect of the loss of any on-site car-parking

Policy DC1.2 states extensions will be allowed subject to:

- a. They are not excessively large or bulky (for example, resulting in structures which are not subservient to original houses or project out too far in front of the original buildings)
- b. They do not create a loss of sunlight/daylight or privacy
- c. They are not out of character with the style of development in the area
- d. They would not result in the loss of off-street parking

NPPF (2019)

The National Planning Policy Framework (February 2019) sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans for housing and other development can be produced and the way in which planning decisions should be made.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National

Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions.

Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

a) an economic objective - to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) a social objective - to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

c) an environmental objective - to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

Legislation

Section of 70A of the Town and Country Planning Act 1990 states that a local planning authority may decline to determine a relevant application if—

(a) any of the conditions in subsections (2) to (4) is satisfied, and

(b) the authority think there has been no significant change in the relevant considerations since the relevant event.

Subsection (2) states The condition is that in the period of two years ending with the date on which the application mentioned in subsection (1) is received the Secretary of State has refused a similar application made to the Secretary of State under section 62A or referred to him under section 76A or 77.

(3)The condition is that in that period the Secretary of State has dismissed an appeal—

(a)against the refusal of a similar application, or

(b)under section 78(2) in respect of a similar application.

(4)The condition is that—

(a)in that period the local planning authority have refused more than one similar application, and

(b)there has been no appeal to the Secretary of State against any such refusal

Condition 3 is relevant in this case as on the 25th February 2020 the Secretary of State has dismissed an appeal against a refusal of a similar application under section 78 of the Town and Country Planning Act 1990 under appeal reference APP/B4215/W/19/3242928.

Relevant Planning History

On the 9th October 2019 an application was registered and given the reference 125065/FO/2019 for:

“The development proposed is conversion of single family dwelling to form a

total of 4 self contained apartments. Works to include new dormers in roof at the front of the property“ (Description as provided by the applicant and as determined by the Inspector in appeal ref APP/B4215/W/19/3242928). The proposals were refused planning permission on the 4th December 2019, for the following 5 reasons:

- 1) *The creation of the 4 no. self-contained residential flats would result in the loss of larger family accommodation, thereby reducing the availability of family housing and undermine the formation of sustainable communities. The proposal would therefore be contrary to the provision of policies SP1, H1, H5, and DM1 of the Manchester Core Strategy (2012), the Guide to Development in Manchester Supplementary Planning Document (2007) and the National Planning Policy Framework (2019).*
- 2) *The proposals would also result in an overly intensive use of the property resulting in the creation of low quality/substandard living accommodation for the occupants of the development, particularly in regard to flat sizes on the ground, first and second floor which would create unduly harmful impacts on the residential amenity of the occupants of the property; and the lack of natural light to the main habitable space to the basement flat. The proposal would therefore be contrary to the provision of policies SP1, H1, and DM1 of the Manchester Core Strategy (2012), saved policy DC5 of the Unitary Development Plan for the City of Manchester (1995), the Manchester Residential Quality Guidance (2017), the Guide to Development in Manchester (2007) and the National Planning Policy Framework (2019).*
- 3) *The provision of the rear entrance to the basement flat is unsatisfactory and would not provide safe entry and exit to the living accommodation due to lack of natural surveillance. This will compromise the safety, security and quality of living/standard of accommodation for the users of that accommodation. The development is therefore contrary to the provisions of policies SP1, EN1 and DM1 of the Manchester Core Strategy (2012), saved policy DC5 of the Unitary Development Plan for the City of Manchester (1995) and the National Planning Policy Framework (2019).*
- 4) *The creation of car parking and associated surfacing to the rear of the property would erode the landscape setting of the building which would unduly harm the character of the area in which the building is located to the detriment of visual amenity contrary to policies SP1 and DM1 of the Core Strategy and saved UDP policy DC5.1.*
- 5) *The proposal, by reason of the size and introduction of two front dormers would produce an incongruous design feature, out of keeping with the existing dwelling and alien to the visual amenity and character of the street scene. As such the proposal is contrary to the City Council's Planning Policies SP1 and DM1.*

The subsequent appeal against refusal was dismissed by the Secretary of State on the 25th February 2020.

Issues

Consideration of Planning Application 128236/FH/2020 with regards to

Section 70A of the Town and Country Planning Act

The appeal proposal

Planning application 125065/FO/2019 included a number of works including the change of use of a single dwellinghouse to flats. Externally works described by the applicant also included the installation of two front dormers.



Drawing reference 109 Proposed side elevation and 108 Proposed Front elevation submitted as part of planning application 125065/FO/2019 which included the proposed two front dormers.

In considered this application the City Council as local planning authority believed the proposals gave rise to a number of concerns and these are reflected in the 5 reasons for refusal. Reason 5 explicitly stated: “The proposal, by reason of the size and introduction of two front dormers would produce an incongruous design feature, out of keeping with the existing dwelling and alien to the visual amenity and character of the street scene. As such the proposal is contrary to the City Council's Planning Policies SP1 and DM1.”

This reflected a specific concern that the proposed dormers which was expanded on within the submitted appeal statement by the City Council as local planning authority that noted at Paragraph 5.25: “The proposed dormers would be set in approximately 700mm from eaves, each dormer would have a width of approximately 3.1 metres and a depth along the ridge of 4.5 metres. Given the overall width of the front of the roof (9 metres) the dormers would extend over two thirds of the expanse of the front roof. Whilst the set back from eaves and gap between the dormers would provide some visual relief it is considered that this would be limited given the overall size and scale of the proposed dormers. As can be seen from the unauthorised front roof extension the property is highly prominent within the street and the proposed additions fail to reflect the character and significant age of the host property. As such the harm caused by the proposed dormers is considered to be unacceptable and contrary to both Core Strategy policies SP1 and DM1. “

In dismissing appeal reference APP/B4215/W/19/3242928 the Inspector appointed by the Secretary of State noted at Paragraph 5

“The dormer windows proposed in relation to the appeal scheme would be excessively wide and set in only slightly from eaves level. This would result in them having a large and overly bulky appearance which would dominate the front roof slope of the property to the detriment of the appearance of the property and the character of the area“

At paragraph 7 the Inspector confirmed in relation to the dormers that:

“The appeal scheme would therefore fail to accord with Policies SP1 and DM1 of Manchester's Local Development Framework Core Strategy Development Plan

Document (2012) (CS) which require amongst other things that development enhances or creates character and is appropriate in scale, form and massing.”

In dismissing the appeal and addressing the reasons for refusal it is clear that specific consideration was made of the proposed dormers as part of the application proposals in relation to their impact on the appearance of the property and character of the area irrespective of the other proposed changes proposed through the appeal application.

The Current application proposals

Planning application 128236/FH/2020 was registered on the 14th October 2020 and the description of proposals provided by the applicant were “Proposed Dormers to front elevation of existing dwelling”.

The application was accompanied by duly completed application forms, location plan (reference 001 and dated October 2019) identifying number 10 Birch Polygon and existing and proposed floor plans and elevation drawings.



Drawing reference 008 Rev A submitted as proposed elevations to application reference 128236/FH/2020

The proposed dormers would be set in approximately 700mm from eaves, each dormer would have a width of approximately 3.1 metres and a depth along the ridge of 4.5 metres. These measurements correlate with those of the proposed dormers submitted under planning application 125065/FO/2019.

Comparison between application reference 125065/FO/2019 and 128236/FH/2020

The descriptions of development provided by the applicant for both proposals refers to installation of dormers to the front of number 10 Birch Polygon. The submitted drawings for both application both set out proposals for the installation of 2 no. dormers of the same position and size to be sited on the front plane of the roof of number 10 Birch Polygon.

In refusing permission for planning application 125065/FO/2019 the City Council as local planning authority specifically referenced the unacceptability of the proposed front dormers in terms of their impacts on the character of the property and the wider area in reason 5. This reason for refusal was explicitly upheld by the Inspector appointed by the Secretary of State in dismissing the subsequent appeal.

The application proposals subject of application 128236/FH/2020 recreate the proposed installation of 2 no. front dormers to 10 Birch Polygon in terms of their siting on the roof and dimensions. It is therefore considered that the proposals currently before the Council trigger section 70 A subsection 3 of the 1990 Town and Country Planning Act.

Conclusion

As the Council have already deemed the development to be unacceptable which has been confirmed in the dismissal of a subsequent appeal by the Secretary of State any approval of the matters presently before the Council would be in direct contradiction to those decisions previously made. Therefore, pursuant to Section 70A of the Town and Country Planning Act 1990, the Council as Local Planning Authority, hereby declines to determine the application and the appropriate entry will be made in the planning register to reflect this decision.

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: Decline to Determine

Article 35 Declaration

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

1) On 4th December 2019 the Council refused planning permission given reference 125065/FO/2019 in relation to the: Installation of two dormers to front following removal of existing dormer and change of use from single family dwellinghouse to 4no. two-bed self-contained flat the following planning application for the following reasons:

- i) *The creation of the 4 no. self-contained residential flats would result in the loss of larger family accommodation, thereby reducing the availability of family housing and undermine the formation of sustainable communities. The proposal would therefore be contrary to the provision of policies SP1, H1, H5, and DM1 of the Manchester Core Strategy (2012), the Guide to Development in Manchester Supplementary Planning Document (2007) and the National Planning Policy Framework (2019).*
- ii) *The proposals would also result in an overly intensive use of the property resulting in the creation of low quality/substandard living accommodation for the occupants of the development, particularly in regard to flat sizes on the ground, first and second floor which would create unduly harmful impacts on the residential amenity of the occupants of the property; and the lack of natural light to the main habitable space to the basement flat. The proposal would therefore be contrary to the*

provision of policies SP1, H1, and DM1 of the Manchester Core Strategy (2012), saved policy DC5 of the Unitary Development Plan for the City of Manchester (1995), the Manchester Residential Quality Guidance (2017), the Guide to Development in Manchester (2007) and the National Planning Policy Framework (2019).

- iii) The provision of the rear entrance to the basement flat is unsatisfactory and would not provide safe entry and exit to the living accommodation due to lack of natural surveillance. This will compromise the safety, security and quality of living/standard of accommodation for the users of that accommodation. The development is therefore contrary to the provisions of policies SP1, EN1 and DM1 of the Manchester Core Strategy (2012), saved policy DC5 of the Unitary Development Plan for the City of Manchester (1995) and the National Planning Policy Framework (2019).*
- iv) The creation of car parking and associated surfacing to the rear of the property would erode the landscape setting of the building which would unduly harm the character of the area in which the building is located to the detriment of visual amenity contrary to policies SP1 and DM1 of the Core Strategy and saved UDP policy DC5.1.*
- v) The proposal, by reason of the size and introduction of two front dormers would produce an incongruous design feature, out of keeping with the existing dwelling and alien to the visual amenity and character of the street scene. As such the proposal is contrary to the City Council's Planning Policies SP1 and DM1*

On the 18th March 2020 an Inspector appointed by the Secretary of State dismissed appeal reference APP/B4215/W/19/3242928 against the Council's refusal of planning permission upholding reason 5 of that decision.

Under Section 70A of the Town and Country Planning Act 1990, a Local Planning Authority may decline to determine an application for planning permission, if the Secretary of State has dismissed an appeal against the refusal of a similar application.

In the opinion of the Local Planning Authority, the proposal of this planning application (ref: 128236/FH/2020) as set out in the documents and associated plans, is for a similar application that has been previously dismissed at appeal by the Secretary of State.

As the Council have already deemed the development to be unacceptable, any approval of the matters presently before me will be in direct contradiction to those decisions previously made. Therefore, pursuant to Section 70A of the Town and Country Planning Act 1990, the Council as Local Planning Authority, hereby declines to determine the application and the appropriate entry will be made in the planning register to reflect this decision.

Appendix 1 – List of consultees & neighbours notified

11 Birch Grove, Manchester, M14 5JX
3 Birch Polygon, Manchester, M14 5HX
Flat 12, 12 Birch Polygon, Manchester, M14 5HX
Flat 11, 12 Birch Polygon, Manchester, M14 5HX
Flat 10, 12 Birch Polygon, Manchester, M14 5HX
Flat 8, 12 Birch Polygon, Manchester, M14 5HX
Flat 6, 12 Birch Polygon, Manchester, M14 5HX
Flat 3, 12 Birch Polygon, Manchester, M14 5HX
1 Birch Polygon, Manchester, M14 5HX
Flat 9, 12 Birch Polygon, Manchester, M14 5HX
Flat 7, 12 Birch Polygon, Manchester, M14 5HX
Flat 5, 12 Birch Polygon, Manchester, M14 5HX
Flat 4, 12 Birch Polygon, Manchester, M14 5HX
Flat 2, 12 Birch Polygon, Manchester, M14 5HX
Flat 1, 12 Birch Polygon, Manchester, M14 5HX
8 Birch Polygon, Manchester, M14 5HX
9 Birch Grove, Manchester, M14 5JX

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
Area Team Boundary - Name: SOUTH