

Planning

Growth & Development

Delegated officer report for planning application

Application no. 140906/FH/2024

Date registered valid: 24 October 2024

Proposal: Retention and extension of a 2.550 metre high close boarded fence to boundary adjoining 3 Milnthorpe Way and boundary to 10 and 8 Lidbrook Walk to the rear

Address: 1 Milnthorpe Way, Manchester, M12 4LP

Ward(s): Ardwick Ward

Applicant: Mrs Khadra Yousef

Agent (if any): Mr Colin Williams Alpha Design

Case officer: Robert Tyrer
Tel: 0161 234 4068
Email: robert.tyrer@manchester.gov.uk

Recommendation: Refuse

Date of recommendation: 19 December 2024

Application details

Type of application: Full Householder Application

Development type: Householder

Date of site visit: 11 December 2024

Standard consultations:

No consultations have been printed and sent.

Neighbour notifications

Printed: 24 October 2024 Expired: 14 November 2024

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

Application site that is the end terrace of a row three, two storey brick built dwellinghouses. The property has previously been extended with a single storey rear extension.

Listed building: Not applicable

Conservation area: Not applicable

Tree Preservation Order: Not applicable

Description of area

Residential in nature.

Description of development

The applicant has applied for planning permission to retain

Consultations & Notification Responses

Publicity – Notification letters were sent to nearby residential properties (see appendix 1 for the list of properties).

Local Residents/Public Opinion – One representation was received objecting to the proposal. Concerns raised include that the previous fence was 1.6 metres high and that it has been increased to 2.55 metres. The fence has resulted in a loss of sunlight on top of the loss experienced by the existing extension. Together with the extension on the other neighbours property it has left the resident with feeling of enclosure and oppressiveness.

The orange colour of the fence is out of character with that of the fences in area and thus the brighter colour makes it stand out.

Issues

Planning History

There has only been two previous planning applications at this address, details have been provided below:

Planning Application Reference: 108398/PDE/2015/N2

Description: Prior Approval Notification for a proposed larger home extension for the erection of a single storey rear extension extending beyond rear wall 6 Metres. Maximum Height measured from Ground Level 3.5 Metres. Maximum Height of Eaves 2.3 Metres.

Decision: Conditional Extension 21.04.2015

Planning Application Reference: 108032/PDE/2015/N2

Description: Notification of a proposed larger home extension for a single storey rear extension extending beyond rear wall by 5.0m, maximum height of 3.5m and height to eaves of 2.3m

Decision: Conditional Extension 10.03.2015

Legislative Issues

Local Policy

Manchester Core Strategy Development Plan Document (2012) - The Core Strategy was adopted on the 11th July 2012 and replaces a large number of policies in Manchester's Unitary Development Plan.

The Unitary Development Plan (UDP) for the City of Manchester (1995) - The Unitary Development Plan for the City of Manchester was adopted in 1995 and has largely been replaced with the policies contained within the Core Strategy. However, there are a number of policies that are extant.

The relevant Core Strategy policies for this application are as follows:

Policy SP1 - Spatial Principles

DM1 – Development Management 1

The Guide to Development in Manchester SPD

Places for Everyone Joint Development Plan – 2022 to 2039

On the 21st March 2024, nine of the ten Greater Manchester Councils voted to adopt the Places for Everyone Joint Development Plan – 2022 to 2039 (PfEJDP); Manchester City Council is one of the Council's that has voted to adopt the plan. The PfEJDP has superseded parts of some of the policies contained within the Council's Core Strategy.

The relevant PfEJDP policy is as follows:

Policy JP-Strat1: Core Growth Area

National Policy

National Planning Policy Framework (NPPF) - The NPPF sets out broad national policies on themes such as housing, historic environment, town centres, design, climate change and the Green Belt.

Central to the broad policy direction contained within the NPPF is the notion of sustainable development; development which effectively balances economic, social and environmental factors.

The Principle

Walls, fences and means of enclosure, if fixed securely to the ground, are operations in terms of section 55 of the Town and Country Planning Act 1990 and thus are development requiring planning permission.

Whilst considerable exemption from planning permission, is given by Part 2 Minor operations Class A of Schedule 2 of the GPDO, which refers to "*The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure*" as being permitted development. However, this limits the maximum height of fence to two metres above ground level.

Section 38(6) Planning and Compulsory Purchase Act 2004 requires that decisions are to be made in accordance with the development plan, unless material considerations indicate otherwise.

Paragraphs 2 and 48 of the NPPF reinforces this requirement and at paragraph 12 states that the presumption in favour of sustainable development does not change the statutory status of the development plan as a starting point for decision making, and that where a planning application conflicts with an up-to-date development plan, permission should not normally be granted.

The applicant is seeking to retain and extend a 2.550 metre high close boarded fence to boundary adjoining 3 Milnthorpe Way and boundary to 10 and 8 Lidbrook Walk.

Matters that require consideration is the impact on the character of the area and residential amenity.

Impacts on the character of the area and residential amenity.

The applicant has as increased part of their rear garden in height from 1.6 metres high to 2.55 metres high to the boundary adjoining 3 Milnthorpe Way and boundary to 10 and 8 Lidbrook Walk as highlighted on the image below. The proposal not only seeks to retain the fence but also increase the length further along the shared boundary with 8 and 10 Lidbrook Road.

Although retrospective, this has allowed officers to view the fencing in situ and to consider its impacts in full. In this case the proposal is not one that can be supported, as seen in image 1, the gardens at the rear of the properties on Milnthorpe Way and Lidbrook Road are tightly packed in and increase of the fence to 2.55 metres has resulted in an overbearing on the neighbouring properties and gardens and there are concerns with overshadowing on the property directly to the north at no 3 Milinthorpe Way.

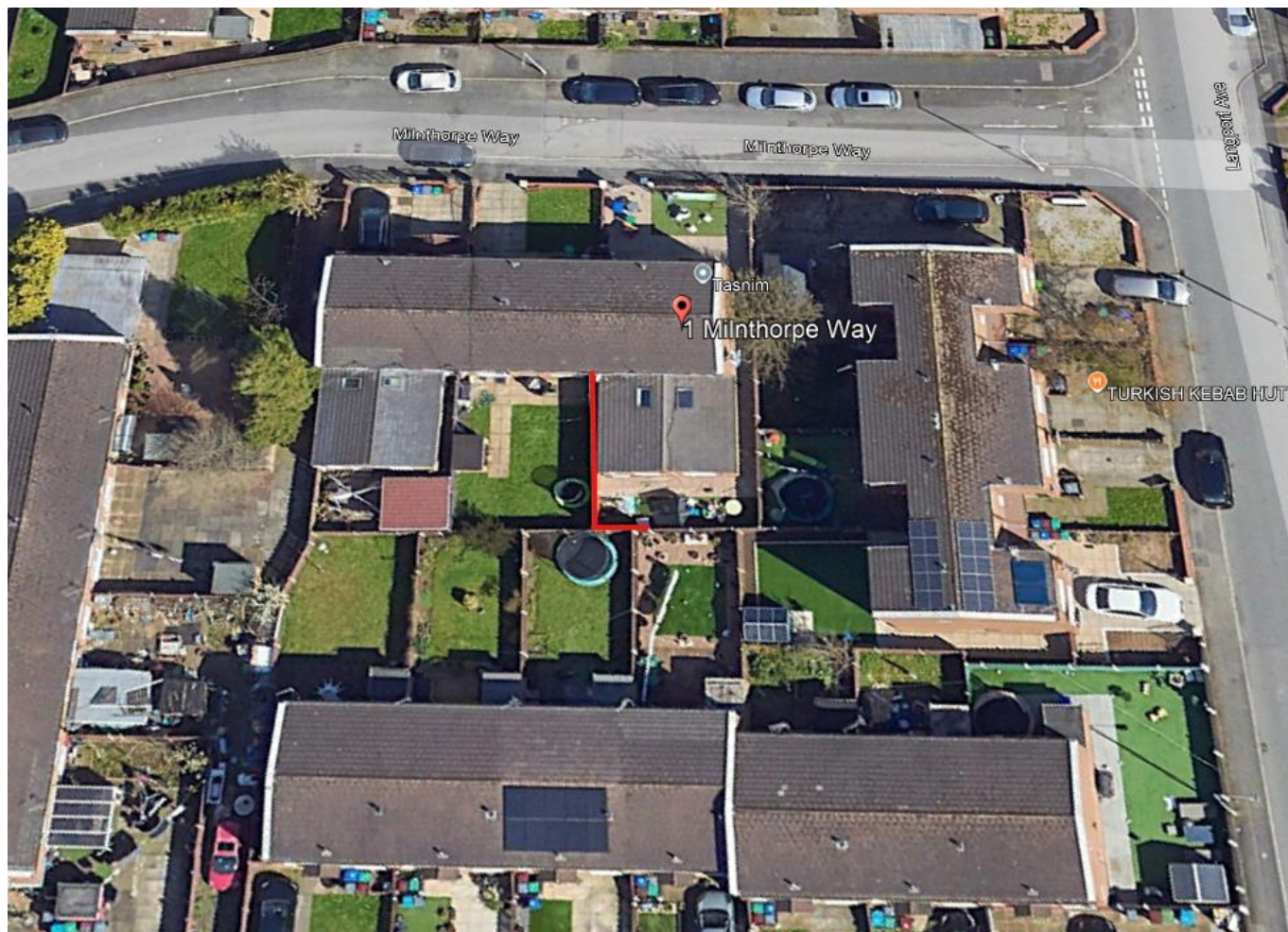


Image 1 Location of 2.55 metre high fence as built and highlighted in red.

Considering that had the fence not being constructed the applicant could have built a fence of up to 2 metres without the requirement for planning permission. Therefore officers sought to see if the applicant would amend the fence so 2 metres and thus the impacts of the fence would be same as those if they had been under permitted development

Therefore, taking into consideration the fence by virtue of its height, siting and external appearance forms an incongruous feature at the rear of the property, that is both oppressive and overbearing with the residential properties that share a boundary between the applicant site and 3 Milnthorpe Way, 8 and 10 Lidbrook Walk to the detriment of the amenity and enjoyment of the rear garden for the current and future residential occupiers of those properties.

The application is recommended for refusal.

Other Legislative Requirements **Equality Act 2010**

Section 149 (Public Sector Equality Duty) of the Equality Act 2010 requires due regard to the need to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act and; Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it. The Equality Duty does not impose a legal requirement to conduct an Equality Impact Assessment. Compliance with the Equality Duty involves consciously thinking about the aims of the Equality Duty as part of the process of decision-making.

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 Local Planning Authority offered solutions to the applicant in order to make the development acceptable, however no amended plans were submitted prior to the application deadline. Without these amendments the development would not improve the economic, social and environmental conditions of the area and therefore does not comprise sustainable development. The Local Planning Authority has therefore implemented the requirement in Paragraph 38 of the NPPF.

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

1) The fence by virtue of its height, siting and external appearance forms an incongruous feature at the rear of the property, that is both oppressive and overbearing with the residential properties that share a boundary between the applicant site and 3 Milnthorpe Way, 8 and 10 Lidbrook Walk to the detriment of the amenity and enjoyment of the rear garden for the current and future residential occupiers of those properties.

The proposal is therefore contrary to policies DM1 and SP1 of the Manchester Core Strategy and the National Planning Policy Framework (NPPF).

Appendix 1 – List of consultees & neighbours notified

10 Langport Avenue, Manchester, M12 4NQ
14 Lidbrook Walk, Manchester, M12 4LN
12 Lidbrook Walk, Manchester, M12 4LN
10 Lidbrook Walk, Manchester, M12 4LN
16 Langport Avenue, Manchester, M12 4NQ
14 Langport Avenue, Manchester, M12 4NQ
12 Langport Avenue, Manchester, M12 4NQ
5 Milnthorpe Way, Manchester, M12 4LP
3 Milnthorpe Way, Manchester, M12 4LP

Appendix 2 – Planning constraints

Article 4 Direction - Removal Of PD Rights Change Of Use From Class C3 To Class C4
Coal Authority - Development Low Risk - Name: DEVELOPMENT_LOW_RISK_AREA
Area Team Boundary - Name: NORTH AREA